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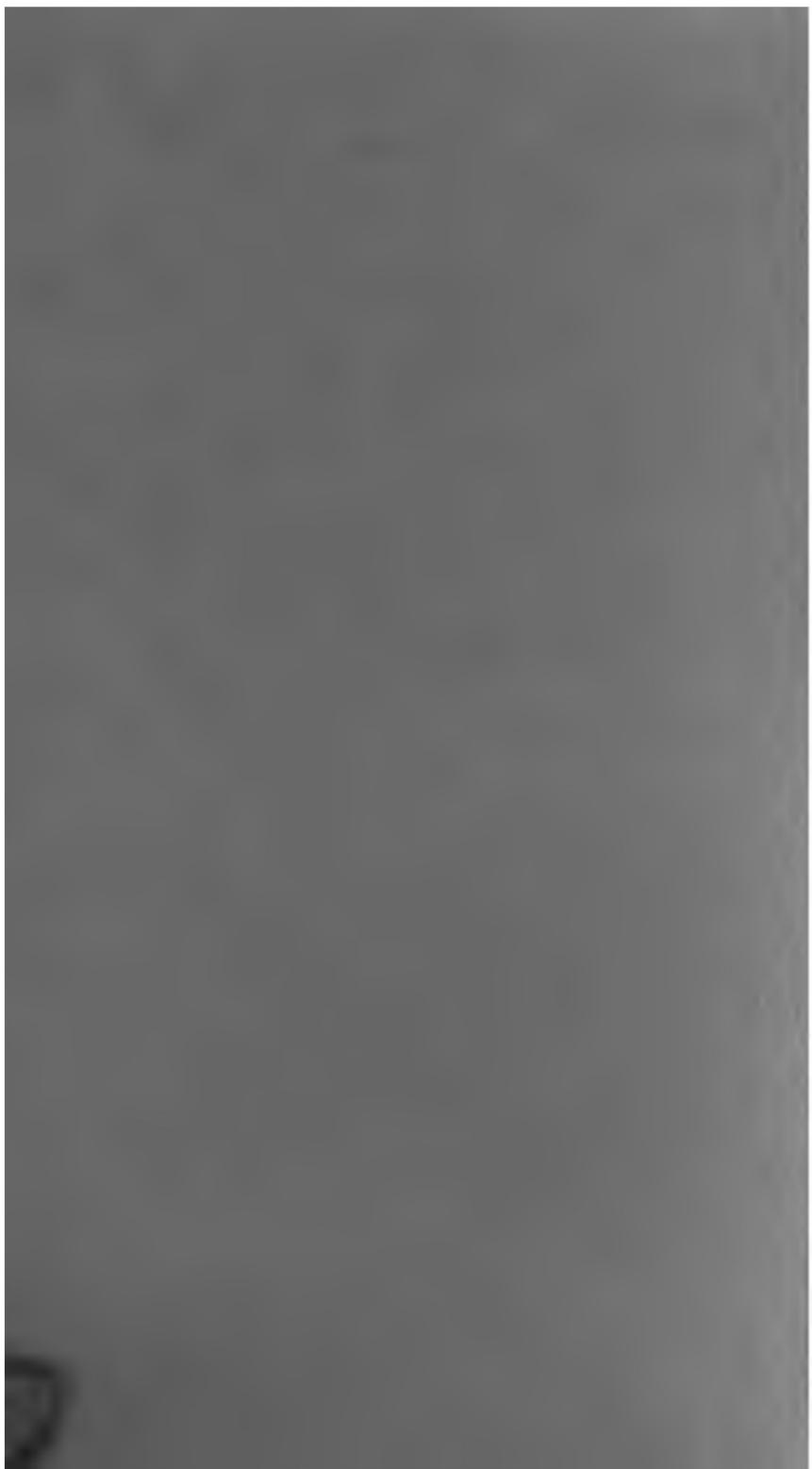
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Constitutional Liberty.

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OR,

SOCIAL, CIVIL, AND POLITICAL

RIGHTS AND PRINCIPLES,

*IN THEIR MORE POPULAR ASPECT, AND
AS A BOND OF UNION.*

In Three Parts.

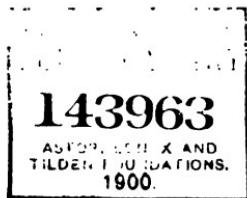
PART FIRST—

SOCIAL RIGHTS AND PRINCIPLES.

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“The feeling of right, without obligation, is simple mastery or superiority: that of  
obligation, without right, is simple subjection.”—*Grote*.  
~~~~~

GLASGOW:
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1880.



P R E F A C E .

THIS is the first part of the work mentioned on the title-page. It will probably be followed by the two other parts, treating of the subject in much the same way; but this part is quite complete by itself.

The contents of the chapters printed at the commencement will give a general idea of the subjects treated of; but the whole is intended to be read together, the practical examples being only intended as illustrations of the general principles treated of, and not meant as being anything particular in themselves. The different chapters, however, may very well be read separately, though they are all strictly in connection with that view of the subject stated in the short introductory chapter, and a general impression is meant to be produced by the perusal of the whole; the fairness or unfairness often lying in minute shades of difference requiring attentive consideration. Chapter VIII., especially, as containing important proposals for the future, deserves attention. The subject is treated from a general outside point of view, in agreement with the word *constitutional*.

It being thoroughly practical, and obviously intended for *all*, and not for the learned alone, will, it is hoped, excuse the citation of passages so well known to many.

It is proper to add that Chapters I., IV., and the most part of X., and XI. were printed, and so far circulated, some years ago.

PART FIRST.

SOCIAL RIGHTS AND PRINCIPLES.



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ALSO THOSE WHO MAKE NO ADVANCE IN LIFE, OR
ARE UNSUCCESSFUL IN LIFE.

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SOCIAL RIGHTS AND PRINCIPLES.

CHAPTER I.

LAW AND LIBERTY, AS AFFECTING THOSE COMMENCING LIFE, AND ALSO THOSE WHO MAKE NO ADVANCE IN LIFE, OR ARE UNSUCCESSFUL IN LIFE.

Youth—Each has rights, direct or indirect—remote as well as near. There will always be some lowest in the scale. Importance of securing Law and Liberty for this as being the weakest part. Independence should be retained as long as possible. Those in such circumstances could not expect many of the agreeables of life or society, but would still discharge the necessary civil duties and not be lawless. In strict law all these rights must be allowed; are the proper checks on mere riches and fashions, and best enable men to see what is wrong. Such circumstances may readily arise.

"That independence, active or retired, which makes the soundest bliss of man below."—*Thomson*.

WHEN we consider the multitudes of youth that are every year passing through our schools and colleges, a very natural reflection may well at times cross the mind, what is to become of them in after life? This is the more natural, as we not seldom read in the lives of great or well-known men of the adventures of *their* younger years, spent in the self-same places, and cannot but reflect that some of those before us will probably in like manner, in after years, have their stories told, though which of them, we cannot say. This is the *agreeable* aspect, and what forms the great spur to exertion and ambition in most. But there is a soberer and more matter-of-fact view of the subject, for everyone *must* pass through life some way—and with few exceptions, *all* must proceed so far in the journey of life as to find some settlement—in short, we must all pass through the world in some way or other, as the proverb says.

Much of this, of course, must be left to the various changes of Providence—to the usual ups and downs of life. None would wish this to be altogether done away. It leaves scope for different

talents, for diligence, and all those varieties of fortune it is impossible to foresee. "There is a Providence in the ways of men that shapes our course, rough hew them as we will."

This, indeed, is so true, and so agreeable to our inclinations when young especially, that it is almost forgot, that in another aspect, and within certain limits, there is a *fixed prospect* before each. Each has rights. These he could reckon and state. Some *directly* affect him; others, perhaps most, affect him remotely and indirectly, or come into play only as time rolls on; and these on that account are apt to be lost sight of by youth especially—or youth may not be aware of them till too late learned in the bitter school of experience: they may have other more pressing things to attend to, or too powerful interests may be adverse to them, making it the part of prudence to say nothing.

In many of these rights, however, they are entitled to protection, not from their own exertions, but through the *fair, equal, impartial, and particular* carrying out of laws and rules.

We may suppose the great mass to belong to the middle classes, and the obvious and less agreeable prospect to be taken into account is, that for one reason or other, there will be always *some* who will succeed neither in professional life nor in business, nor yet have fortunes, or even what is meant by a competency. This is the question we have to face, and it is of more consequence than we would at first suppose, owing to its being an obscure and disagreeable one. Such parties themselves naturally seek retirement; others do not care to seek them out, etc. Yet this is, as it were, the *first* step of a ladder—the first link of a chain—the lowest allowable standard of living; and as such, and for this very reason, must determine all the rest. In another serious aspect, in no way can we avoid this. The law secures to everyone the money value of everything he can fairly purchase. And it is clear, the great standard of things must be conformed to this *barely*, and not to what can be done either by a superfluity or even a competence. None will perhaps deny this in words, in the abstract, but yet probably in all times and all countries, but especially where riches abound, there will naturally be the attempt to oppress more or less here. *Forestalling* is only one of the many forms in which wealth seeks more than its fair influence. This is the

weakest part of the community, and will feel wrongs and grievances first. These, like the approach of famine, will first affect them. As to secure any vessel, then, we would first strengthen the *weakest part*, so here law and justice should *first* be secured, or else we have made a grevious mistake, like one who had left out his first step of proof or link of his chain.

It will be said let them become dependent upon others, and that doubtless is the last and unavoidable solution in some circumstances. But that is not the precise question we have in view, and is one, like total failure, that every man puts off as long as he can. It is what everyone would wish to put off. It is thus to put off that is the end in view—it is what the community generally are concerned to put off as long as possible; for it is obvious that a man who is not independent must in point of fact be disqualified for many duties, whether he may be so legally or not—morally he must be so. It tends to injure the community by spreading this dependence among them, just as one failure is apt to give rise to others.

Independence may be retained so long as anyone can meet those bare expenses that are absolutely *necessary*, and these are well enough known. There is no doubt about this as a matter of law and right, but even where laws are best carried out, much, it is obvious, must depend upon custom, upon society, upon fashion, upon the way of viewing things, or of representing things, and many other matters that cannot even be alluded to, and which are not matter of law, and in which most people are apt to think they have an *entire right* to act as they please, wholly irrespective of any considerations of right and wrong. A little reflection, however, must convince all that matters of law and right among conscientious people should be carried out not only literally, but in their details.

It must, however, be explained that this is not meant for an instant to trench upon that perfectly free action in society that is left entirely voluntary to everyone. It is only meant to apply to matters that, though not law, are fairly implied in law and rights, and should go along with them, though this may be entirely in the power of others. In this sense, our very meanings, intentions, and sayings are of importance. We may *do* nothing

against a person's rights, but if we do or say anything that even remotely denies them, *that* must injure the party—will probably influence others, and, as this may spread, the greatest injury may in point of fact be done without there being anything to complain of outwardly.

The class we at present allude to—using the word class in a loose sense, for in another and important meaning these are distinguished as belonging to no class—when we come to consider what is the fair course of things, could not expect many of the *agreeables* of life; their circumstances are next to those we call necessitous. Into *general* society it would be agreeable to neither party for them to go. This itself is a great privation, yet probably all will readily enough admit that this is very much what *should* be; the tendency is to go too far in this direction, so as to trespass upon the province of law and right. And it need not be said we cannot do that, and at the same time be doing what will in the long run benefit the community. In truth, there are plenty inducements to activity, and of disagreeables that attend a bare sufficiency, to prevent it ever being too much sought after or rested in. Take the case of those bred to professional life, probably the most common one, it is *then* they would feel the advantage of Education and of College study;—it would enable them to pass and improve time which otherwise they would be at a loss what to do with, and this makes an important difference between the educated and uneducated—those in the middle ranks and those in the lowest. These last, if accustomed to manual labour only, would find time so irksome to pass, if they had absolutely no resource but mental exertion, that it would practically prevent them passing it in this way. And even the others would find studying in these circumstances difficult, except to further follow out, as opportunity offered and by degrees, that groundwork they had *already* acquired. It need scarcely be said that this forms a strong argument for general education for all, so that all might be able to spend idle time profitably and agreeably. Different places, circumstances, and institutions afford more or less advantages to such.

This class, however, would perform all the imperative duties of good citizens, but could not expect to render themselves useful

in the same way as those of ample means. Indeed, the right discharge of these duties would constitute the strict and accurate line of difference between them and others, whom they might somewhat outwardly resemble, but who did not perform these duties, and who justly for this reason are looked on as scourges of society, in every way to be discouraged. It is the more necessary to call attention to this, because it is in the confounding of this distinction that the injustice lies. It is here legal and civil duties would come in, which should never be set aside for considerations of mere fashion, etc. This class, in one sense, may be viewed as the advanced guard of independence, law, and liberty: and thus a most important class. Most are only too ready to sell their independence, and others, in general, too indifferent whether or not this is accompanied with any improper submission. It is too often forgot that the refusal to do so may be one of the causes why any of those whom we contemplate at the outset of life may, in a sense unwillingly, be left to retain their seemingly barren independence, which is thus *commendable*, instead of, as it is rather apt to be viewed, the reverse; though, at the same time, it is not what in general can be *known* beforehand, and is only a supposititious case we must always leave room for. It is not to be denied that what is called *bad success* in life is often attended with faults, and sometimes grave moral ones. Such cases, however, are a little different from what is now alluded to, even in their outward aspect—they are for one thing accompanied with none of that self-denying endurance, or those disagreeables which must always attend a state of mere sufficiency.

There is a tendency to confound this class with those we call dependent. But the line of distinction is clear, as clear as between a merchant before and after failure, or rather between solvency and insolvency, to which it is strictly analogous; though from circumstances, and the smallness of the means involved, this may more easily be lost sight of. The difference is greater in another way, for dependence, in whatever shape, is as palpably different from independence, from its marked humiliations and disagreeables, as captivity is from freedom.

In strict law, then, we cannot disallow this class; and, on con-

sideration, should not wish to do so. They have their proper place and duties, and are useful. They form checks, so to speak, on that tendency to the abuse of mere riches, which ambition, the allurements of the world, and fashion are too apt to give rise to. Sober men should be glad of a restraint upon fashion and mere feelings: these should have play only within certain limits; and we should do what we can to retain those hard and unbending lines which the law lays down, to check mere feelings or other considerations even of a better kind. In securing the rights of these, they would best secure and limit their own. Such are in truth the real pioneers of liberty. Easy to contend for right amid plenty, with the assistance money commands; but it is more clearly shown that it is the right, when it is contended for by those to whom it is of most value, and whom its gain or loss seriously affects. Those who, being at the limits and extreme of things, see rights and wrongs, and the naked truth, in a way that is with more difficulty seen by those who can scarcely, perhaps, say whether their own rights are secure to them from the mere influence of wealth and station, or from an impartial carrying out of law. We must go to the bottom to secure this, or else we are in the dark in everything. Such, then, ought to maintain their rights, which is very different from that tame acquiescence in everything, that some may be inclined to think commendable. We might say that *they only* are qualified for this part; and it is their duty to let others know of any wrong or violation of right. Such a situation may not be agreeable, or what we would choose, but it is important. The truth of this we may the more readily admit when we consider that every business has its rules, and that there are the ordinary cares of life, all which form trammels in the way of most men applying themselves seriously to any new subject requiring time and exertion. Such persons, however, may and ought, as far as they can, passively, so to speak, to assist others who have not their trammels. It may also be said that even those actively engaged as leaders in striving for right are less apt to see and feel certain grievances than those in retirement.

It should not be supposed that any mere trifling difference is involved between a person obtaining his accurate rights, and not

doing so, or being kept in uncertainty about them. Take the case of one deprived at the outset of life of that support upon which he has hitherto depended—the largest professional income, or what arises from services of any kind, may at once be lost. One bred to a profession, say, would unwillingly lose all the advantages of it; and, generally we might suppose, he may have just enough to carry him on in the independent position required for a series of years, without it being permanent. If he does not succeed, he still may continue for a time in this same way; but further we cannot look forward, except that there is what he may perhaps receive in the natural course of things, or what various providential circumstances may put in his way in the course of years. All these, however, depend in a good deal upon accuracy in the law, and *certainty* is almost of as much value as the thing itself. Perhaps, as in other things, it is best here to allow the fair natural course of things to go on, and then, just as when a man of business fails, let him find friends to assist him. This of course is interfered with by mistakes and misrepresentations. If in strict law there is no doubt, why should other collateral circumstances give rise to it? But when law and justice cannot be set aside, there may be delays and temporary expenses, and these, in the circumstances supposed, may deprive one of the benefits he is entitled to, or may give rise to a degree of uncertainty that causes an anxiety very adverse to that measure of peace and quietness necessary for professional, literary, or business pursuits, as such a person might reckon his right. This, too, is a little different from what we have in view, for beyond this even a person is still entitled to his independence, though he must be viewed as having failed in his prospects in professional or business life.

If it is said this is a miserable prospect, still it is what we must have in view; and it is too often forgot that one bred to a profession, etc., cannot be of use otherwise in competition with those bred to particular pursuits. The more the pity, where there is no real occasion, and where injustice must be involved in doing so, to destroy his proper lot in life.

These are obscure wrongs, but it should not too readily be supposed they do not exist. What wonder if at the weakest part we find grievances to arise first. What is obtained even from the

good feelings of others is a very different thing from a *matter of right*: and those who may be inclined to act aright in the former may be indifferent as to the last, to say the least.

These are general introductory remarks; and we shall go on to consider more particularly some of the many matters affected by laws, rules, and customs.

"Virtue, but poor, God doth in this Earth place,
'Gainst this rude world to stand upon His right."

—*Mich. Drayton.*

CHAPTER II.

LAW AND LIBERTY, ETC., MORE PARTICULARLY CONSIDERED.

Remaining stationary in life. Success not always good. There might be two ways in families. More freedom and variety in the one than in the other. Poverty often a relative term. Situations in general life, two ways also. Professions and irregular business. Tendency to warp things unless there is exactness. Another department, Literature—Those who write and those who read. These two classes have much in common. Literature not a profession, but personal and free. But cannot be separated altogether from business. An infield and outfield. Greater freedom in the outfield. A just medium of rights. Civil life.

“Lament not, honest soul !
That Providence holds back from thee
The means thou mightst so well control.”

—R. M. Milnes.

ALL that has been said, however, rather refers to the prospects of those who *do not get on*. This is the lowest part. It is important it should get justice. It is more difficult to get it. There is a tendency to push it aside. It is true that each has his day and generation as a young man at the outset of life, and that the usual thing is for most to rise in business or professional life. But there is no law binding them to this ; they may simply remain stationary. In this way they are an important part of the permanent order of things. It is the others rather that have changed, through prosperity it may be. But these last are apt to forget this, and usurp the place of the others. It is true the others also will find changes, but they arise rather from the treatment of others and from the fashions of society than anything in themselves or from their *civil* position. Hence arises the importance of civil rights to them. Thus in social life young men meet attentions they may not meet afterwards. Their older friends, of course, die off, and they will then become sensible that they owed much to them which they might very naturally be unconscious of at the time. Retirement and privacy, as already said, will suit them best. The regulations, customs, or fashions connected with such things as lodgings, literature, and those institutions as would suit them, must be to them of

the greatest importance. It is obvious that all these are affected directly by civil laws; but much also depends both on the fair *carrying out* of laws, and also the intentions, meanings, and customs beyond the literal laws.

As we have said at the outset, within certain limits there is a fixed prospect before each; that is to say, we may beforehand suppose what different kinds of fortune may fairly turn up for each. We, of course, say nothing of those unexpected accidents that will be sure to occur, events which we cannot foresee, or which though we did, it would be only to avoid them. We do not lay down as a prospect that any will be starved to death, that would be accidental and exceptional; but it is certainly fair to ask, if not—What is the prospect at the worst, at the lowest extreme? This in its civil aspect is too little thought of. Young men are always spoken to as if they were to rise in life, almost as if this were their duty. To speak soberly, however, this can only apply to a few; it disposes of so many; but what of the rest, and especially those at the other extreme, who have as much right to their fair civil position as those who prosper more.

Of this success in life something requires to be said. It is common in all countries to hear of those who have risen to the highest stations from poverty. It is not confined to freedom. It is what is often attended with much misery, etc. It obviously may hold out temptations to unfair practices, etc. It is allied to ambition and that worldliness so severely reprobated in religion. It is probably too much praised, and too many incitements held out to it; while nothing is ever said in praise of patience and contentment. This last should be more done, when we consider how common it is for most to look back with regret to their boyish circumstances after they have finally separated from them. Success, unless fair, and when rights are disregarded, can only be oppressive to others, and especially to compeers. On the other hand, it must be granted that the best thing is when there is a hope of getting on, or, after years of labour, of rising to something better, or of acquiring a competency. This makes exertions not hopeless; leaves the prospect of time for higher pursuits; and in this way valuable experience is acquired when young to be used afterwards.

Taking, as an instance, a large family of sons to dispose of in life, we may consider what is fair and best in the abstract. And first, we may ask, what is the great object in life in the view we are dealing with? To consider this at the outset might guide our conduct afterwards; otherwise we might naturally fall into circumstances neither the best nor fair to some. For each to come to possess a house of his own must be considered the great end. This, in the main, includes everything, both among rich and poor. But, of course, there are great differences, and there are two ways in which we may view them. We may fix upon one high standard which all are to be expected to reach—all to remain equal, and we may suppose the same as when young. Or we may say, no, let *each* find a place for himself. In this case, however equal at the outset, some may get higher, and others lower. Equality, it is true, is destroyed, but there are advantages which make it the best plan. It leaves greater room, it is obvious, for effecting the desirable end, and that is no small matter. It is not so ambitious, and may not be so well liked at the outset, by the young especially; but it embraces more of the realities of life, as already said, though some may be much poorer than the others. A home is home, be it ever so small, and there is such a thing as splendid misery. Something like this last we may have if we fix upon the first plan. In that case we can scarcely expect, and at least, it will be much more difficult and rarer, for each one to obtain this home. If one or two do, the others must keep up to it, and get the same, in order to be on an equality. There is, as it were, less room for several. The others, of course, do not attain to the realities of life; they are more apt to be dependent, instead of maintaining that independence we have been all along seeking for. They may be in a sense higher, but it must be accompanied with dependence, or at least, a want of that freedom that exists only among equals. It will be apt to become more and more disagreeable and unsuitable.

Surely it is best for each one to follow those pursuits he likes best, and is adapted for. Independence is also required for freedom in religion, morals, and matters of taste. There may be differences of opinion on religion; and both for it, and for the other things mentioned, independence is required, and in a wider sense than in

the family only. In religion a person may not wish any one to manage for him ; he no doubt will be associated with others, but it will be not only strictly as equals and as sharers in common, but will be confined probably to one place and time ; at other times, and in business, he will be by himself, independent, and will often meet those from whom he differs. In morals it may be much the same ; both in the family and in general life, independence is required if he differs from others. Matters of taste and liking, too, though not so important, are of the same nature ; if he is to get indulging them, he must be independent of others.

Poverty is very much a relative term. A man who is called poor by those he was once as rich as, or might have been as rich as, or by those who at the outset were the same as himself, is considered rich by the beggar to whom he gives charity, and well enough off by the benevolent institution to which he subscribes, and so he is. But he must not be compared with those who are richer as to his house, and many other things. And there need be no occasion for doing that in the second case we have been supposing, where he is not expected to keep on a equality in such things with others ; but it need not be said this depends on separation, and the observance of all the rules that regulate things. Things must not be put alongside with one another so as to lead to comparisons. It is each pursuing a separate and independent path of life, and not interfering with one another ; and more care in the exact observance of all rules may be required by them than even by strangers ; yet there is an obvious tendency to set them aside for several reasons. Both civil laws, rules, and especially the law of manners, affect these things. The poorer a person gets he is the more dependent on civil rights and exact propriety of manners ; and thus a person's prospects in life depend on how these are observed. Some things are no doubt mere matters of opinion, or taste, but others are matters of fairness and justice, or of a proper understanding of things. It is a mere seeming amiability that would keep everyone on the same footing as when they were young. It ignores the changes that life brings, and the new connections and relations that are sure to be formed and entered into. If it hinders or prevents these, it is a serious drawback and

evil on the main end and reality of life as here considered—active engagement in business pursuits, indulgence in such tastes as a person may have a turn for, or in short, in any of the many ways he might choose to employ himself.

It need not be objected that the possession of a house implies something more than the lowest which we have professed to be considering. In it we would include whatever a person can call his own, however small—where none else can properly intrude—where he spends his nights. With this he may be independent; another may have the same, and yet be tied to rules, engagements, and pursuits that make him feel not free nor equal. Much, too, lies in what a person feels he may do agreeably, if he chooses. The one may feel tied to his position, though no law binds him. The other may change if he chooses—take another house, engage in other pursuits, etc.; in short, he is freer. The prospect to the one is blank; to the other, as we have already said, there is a great aim in life, which generally includes something more than what a young man possesses at the outset of life. Freedom implies the right to change places and associates; as a civil right, it cannot be denied; but it is influenced by manners, customs, opinions of what is right and best, with the behaviour expected from a person.

We may consider this subject, of how to provide most situations for young men, in its general aspects as regards the whole community. This leads to the consideration of the general fair rule as to age and employment. It is plain there is a great difference between filling up all situations and important and leading posts with young men just as they enter upon life, and the filling them up with men in middle age. It is only the general rule, and what is best in the main that need be considered, for of course there might be exceptions made to it. An average even, like those made by Insurance Companies, might be calculated. If all situations are given to young men there will be none for those in middle life. There will be fewer changes and advancements. This will make more of classes or castes, as it were, all keeping strictly to their own sets; instead of a mingling by promotion as years went on—many starting low but rising high, or having that prospect at least before them. It is

connected, too, with everyone keeping more or less strictly and closely to each separate line of business.

There can be little doubt which is the best plan in the main. Young men may be clever but cannot be experienced. Years themselves also bring what nothing else will. Years, almost without anything else, qualify them for what as young men they would have been incompetent for. Young men may be "put up to," and assisted, or advised by others, and do well enough for what is wanted, but that is not what is best for themselves. And as regards others, when generally acted on, it keeps the greater number at harder work, in more drudging situations, with poorer comforts later in life. It is surely better, more decent, and comely, too, that men when young should acquire this experience, and that years should bring ease, leisure, and increase of what enlarging families require. The effect on the spirits must be very great. Hope in looking forward is what makes men in general undergo hardship, as in enterprises, life in the Colonies, etc., etc.; and, though not in the same extreme, is best here. It gives men not old a longer experience. It makes more of equality in civil and social life, at least within the length of a life-time. A man instead of merely hoping that his son may rise higher than himself may expect this himself. That all are free to rise is generally thought to be a good thing, and one of the blessings of freedom. This, then, would only be to get more of it—to make it more diffused, and spread it among greater numbers. Instead of a few instances attracting notice by the greatness of the change, there might be, and could be if extended to numbers, many rising at least a short way. That is to say, instead of a few making great fortunes, or what came to the same thing, many might acquire a competency, or at least leisure and ease. In this there would be greater interchange—greater room for each adapting himself to the position he liked best and was best suited for. Caste is considered bad, and that is an immovable clinging to the same grade, profession, trade, or status. The change from one pursuit to another of a totally different kind is another matter, and different from rising, as life goes on, in the same line.

To show the difference in the two ways, we may consider situa-

tions classed into three grades, rising in importance, etc. These might correspond in number to those at the three ages between 20 and 30, 30 and 50, and 50 and 70 ; if all or a great portion of the highest and best situations were given to men between, say 25 and 30 years, the result would be that those in the second class of situations would be older men than those in the third or highest. That would be the older serving the younger—the more experienced the less experienced—those younger having more license and larger means than those elder than themselves, who, with probably larger families, would have smaller means and harder work, to say nothing of having no prospect of advancement.

The principle of division of labour may seem to favour keeping every one immovable in the precise same grade or situation he begins with, but it only seems ; for an intelligent man will soon qualify himself for a situation of the same nature as he already knows, and be the better of the additional experience, as higher situations have often to judge of the lower. This has been also said by others—"For a man to be his own master is one of the noblest aims in life ; but, like many other of our railway day notions, we forget the old maxims of our forefathers, and put young inexperienced persons into business who are totally unfit to be trusted."¹ "Take care that your sons begin at the bottom of the tree of life and work their way upwards, instead of jumping to the top through the assistance your gold has rendered."²

In a more extended view the same might be said of other and lower situations. In ancient times we read of great men doing what we now consider menial offices. A little work is not inconsistent with higher pursuits. Its advantages have often been shown. Incessant mental toil is bad. There might be more or less. Young men might work more than those older. A great deal of this at present depends on mere fashion and opinion, but if these were changed, there is nothing unsuitable in the mixture within certain limits ; it is little else than healthy exercise mixed with mental pursuits. In war it implies no disgrace. All pursuits, indeed, have their rough work as well as smooth, and it is generally thought best to take all together, instead of creaming off the mere agreeables. The mixture, too, would prevent whole

¹ "Business Life," p. 29.

² Ibid., p. 201.

classes being degraded—made worse than they need be. No labour probably need degrade, unless it is incessant, hopeless—leaving no time or chance of anything better.

“The mind can shed a light
On each worthy labour done,
As lowliest things are bright
In the radiance of the sun.”

—(From the German.)

There would require, however, to be enough of this to break down the walls of difference of opinion. Something like it has been tried connected with studies at Universities, successfully, it has been said. This, however, is rather beyond what we are at present considering.

Giving situations by competition, or, with certain qualifications, by ballot, would also tend to keep alive the feeling of independence, and, above all, would leave a chance of employment to those who had fallen out of the professional routine, or who from any other cause were in danger of becoming destitute. It would be a chance to look forward to.

There is a natural tendency to make everything professional. Thus this is the case with what used to be looked upon as a kind of refuge—teaching; and the same with other things. Were attention directed to it, however, there are probably many duties which require to be performed, and yet do not take up much time, or require any great qualifications, which might suit a person who could perform them without ostentation, or the laboured qualifications of serving an apprenticeship. Such duties, however, are apt to be annexed to other businesses and professions, and such a situation to be suppressed. The reason is, that one uniform status and standing is considered proper for everything in any way of a public nature; and thus, if a situation is small, there is apt to be a cry to increase the emoluments, as being insufficient. It would be best, therefore, to make it more private, beyond routine, professional, regular business; in harmony, in short, with what we are considering. It is difficult to see any good reason why a person might not perform any odd piece of business occasionally though not professional, or hold a situation with occasional recurring duties, which would be all gain to him.

In seeking the right rule, we might say, that as this is an irregular class, what is irregular should as fairly fall to them as to regular professional men. The opposite rule is very hard, and yet there is a tendency to it. It is in its own place right that everything should be regular. Apprenticeship is the proper entrance into every business; but what is irregular business seems to fall naturally to those not in regular business. At least this might apply to many things, and, at all events, we need not fix upon a rule directly in the teeth of it.

We will, however, again come to the conclusion that exact, fair, and impartial law, and protection of rights, is what must form the best and surest protection. They are more needed here than elsewhere. It is an abstract and retired situation or occupation, leaving room for advantage of it being taken, and for neglect, with few means of defence. It may be further added that the want of this exactness will naturally give rise to a tendency to include too much in professions. The idea of these is that there are qualifications necessary, and trials that must be passed—that they convey a guarantee that the person is qualified. This may be more or less strict, however. It may be in some a mere name or honour, with any privileges and advantages that can be obtained without much performance of actual duties, or, indeed, of any duties at all. Would it not be better and fairer for such parties, as members of the general community, to maintain their rights—to get what share of irregular and general business they could obtain, or live on any small means they had? They would thus indirectly contribute to the maintenance of general rights, instead of special, and the rights of the weaker and poorer parts of the community. If there is no deceit or imposition, the existence of amateurs or irregular parties outside all professions is no evil. It is a check and spur. Sometimes discoveries and improvements have been made by them while they have been opposed by the regular bodies. *Vexatio dat intellectum—Ingenii largitor venter—* “Necessity quickens the intellect.”

This pertains, indeed, to the great subject of the two laws—regular and irregular—inner and outer—law and equity.

Viewing this again in connection with independence, liberty, and civil rights, it is to be remembered that these will be most

required, and that there will be most difficulty in obtaining them—most temptations, also, to part with them, not in the extremes of society, where rights, &c., are either fewer and simpler, or are better defined, less apt to be disputed, and more means to defend them; but will be found amid the complications of the middle classes, where, in a sense, *all* classes meet or may meet, where business and pleasure, those that are well and those that are ill off, all strive together, and where different interests with very different ends in view, leading to the use of very different means, too often warp, if nothing worse, the fair and right course of things, and where liberty and independence are but too oft to be considered to weigh nothing at all in the scales with various interests. Greater exactness will also be required in proportion as there are larger numbers, each with different interests. This will be found of course in the case of a large family. It is perhaps *there* that we must look for the best test or example of a right order of things. *One* would have only one interest, and might obtain advantages which couldn't be obtained where there were several. It is here, too, we must look for union, or rather for that knowledge of the way of taking things which is common to all. Property and law are common to all. Property, like coin, is the same in all classes; but soon differences come to be attached to it, or its management. But as in a large family, especially in the middle ranks, the path of each may be different—some improving and advancing themselves, others the reverse—so greater accuracy is required if we would deal fairly with these differences; for it is only at the outset that all are equal, and only in what is fairly and rightly common to all, that according to the fair and lawful rule of things we can expect that union and agreement which may be so desirable. Different ages, different professions and pursuits, different places of abode, even different countries—all will contribute to different interests, and not least different forms of religion may exist.

There is, however, another important department of which much might be said, both in reference to retirement, rights, and to any more or less irregular way of employing time—that is literature. It is a word of wide meaning, and under it we may include both those who teach or write, and those who listen to

them or read. Less needs to be said of the first of these in the aspect in which we have been viewing things ; for it is plain they must always form the fewer in number, the most talented, and, if sometimes poor, often the reverse. Those who listen and read are both a larger and also more various class, including all degrees of talent and of application of these talents. But it is clear that a person who has little or no business, or who has failed to succeed in that, and has plenty of leisure time, will naturally have recourse more or less to literature. There will be a strong temptation to do more than read and listen. To do more, however, a person ought to be cautious. There are pleasure and profit in listening, and to try to teach is a wholly different matter, more troublesome and difficult than at first it seems. There should be no hurry at all events, and perhaps it is best when without any formal resolution, a person in the course of time finds he has acquired thorough information on any point, and that something is neglected or commonly misrepresented, and then tries to do what he can. This would be altogether apart from any consideration of pecuniary profit ; that is very much a matter of chance ; some subjects are popular, others not ; and it is best to have no thoughts of pecuniary profit. That is to say, in general ; for, in another view, literature may be regarded as a profession, in which men make a livelihood as in other professions.

There is much in common, however, as regards rights, etc., between both these classes, and therefore we may consider the whole subject. Otherwise, there is such a distance and difference between a thriving man in literature and one who merely spends his time in reading and listening to lectures, that we might lay the former altogether out of account. They both, however, spring as it were out of the same common ground. A person must read before he can write. One who writes and who reaches the highest status may have had no such intention at the outset, he may have been led on from one thing to another. If it is best not to be in a hurry, he must at all events spend a good while the same as those who have no such intention. This common ground, then, should be respected and fair rights secured for it, as forming to some merely the lowest step of the ladder, though to others it is something more permanent. There is all the more in common,

because there are many subjects on which a person might be engaged that would yield no pecuniary profit.

It has been disputed whether literature is a profession or not. But most will probably agree it is not—at least in its highest and best sense. All our best works are from those who were not professional. Perfect freedom must be left for any specially qualified and interested in a subject to treat upon it. This adaptation to any given subject cannot be subjected to rules. It is known in its *results* alone, and cannot therefore even be assisted beforehand; for that would require us to assist every one. All that can be done, as already said, is to leave the field clear and allow no barriers to be put in the way of a fair trial being given to all. And this will be done by seeing justice done in this very subject we treat of; otherwise, we may be crushing down what we would have wished to rather assist had we known. The Fine Arts are not professional either. In a certain sense there is more of what is professional in them than in literature, but neither of them in their highest aspect and in what constitutes their true nature are such—to make them so, strictly, would be to destroy them. Doubtless there might still be much that was valuable and useful, but it would rather be so in a pecuniary sense, than in relation to merit and talent. Hence it is that true reputations in these are only *personal*, and it is not considered *per se* any great recommendation that one belongs to the professional part merely—"in literature and art the man is all in all."¹ And right that it should be so. This is sufficient discouragement to a beginner and candidate, and it lends an additional weight to any injustice in these matters we treat of, and this consideration should be another reason for seeing that justice is *impartially obtained by every one*. We are naturally fond of association, that therefore we need not be on the alert to encourage and foster, no more than any ordinary matter of self-interest; but we need to be stirred up to secure impartial justice, and to guard against injustice to any one. What we treat of belongs to the last.

The distinction between literature in general and as a profession or business has been very strongly insisted upon.—"The very expression 'literary profession' is a misnomer. Literature is not

¹ Painter's Camp 2, 106.

and never can be a profession in the sense in which law, physic, and divinity, the army and navy, engineering, and some other pursuits are professions. . . . Writing for newspapers or editing magazines are, no doubt, professional pursuits, but they should be described by their proper names—as branches of the profession of journalism.¹ To have a “facility for writing,” and to “make one’s living by it,” in short, must be viewed as something by itself distinct from literature. All professions involve more or less of literature; but in its proper sense it can never be tied up by the rules which regulate all businesses. It must be left free. On this we find a very general agreement. Even academies and associations have been denounced as bad on this very account.—“If an academy should be established for the cultivation of our style, which I, who can never wish to see dependence multiplied, hope the spirit of English liberty will hinder or destroy.”²

The very nature of the subject requires freedom.—“Nothing can please many and please long but just representations of general nature.”—“There are no class of men so little calculated to act in *corps* as literary men. All their views are reclusive and separate (for the mind acts by individual energy, and not by numbers): their motives whether good or bad are personal to themselves.”³ In like manner another says very truly of societies:—“Literary Societies are good so far as they diffuse a taste for literature and promote the friendly intercourse of literary men; but they can neither elicit genius, nor regulate taste. No man can think correctly, who does not think for himself and by himself.”⁴ The fullest truth will always come from those least trammelled. Even periodicals do not allow so much as this. They prune down; and thus lead the writer to do the same. A popular authoress complains that she found those of her contributions to a magazine she thought most useful were rejected as unsuitable; or, if not, deprived of the very point she thought most useful.⁵ This, however, is what is meant by the profession of journalism; and is connected with the means of livelihood.—“I am not willing,” says another, “to have what I write mutilated, or what I ought

¹ *Pall Mall Gazette*, Ap., 1859.

² Dr. Sa. Johnson, Pref. Eng. Dict.

³ Hazlitt. Ess. 160.

⁴ Hartley Coleridge, Life. 2. 54.

⁵ Reminiscences of Thought and Feeling. M. A. K., p. 48.

to say dictated to suit the public taste."¹ In a treatise on this very subject the conclusion arrived at is, that competition in an open market is best and surest of its reward, however large the number, than under the patronage of a few.—State encouragement is not necessary; but it is best when free, and there are no bounties and prohibitions.² There is no occasion to say anything against the established rules of periodicals, etc.; what is wanted is that freedom be not interfered with. Societies, such as above alluded to, are so regulated now that they do not interfere with this freedom, and therefore many of the old objections do not apply. Let there be the same freedom in everything. As another says, "Let the republic of letters be ever free; and let no bribery and corruption prevail in it. Where patronage interferes, independence is too often destroyed." . . . "The pensioned or patronised author has an everlasting debt of gratitude to pay, is frequently doomed to unmanly submission." . . . "To seek learning and virtue is one thing, and to seek preferment and patronage another."³ The pursuits are often incompatible.

The true solution, however, is that there is room for both—both for literature as a profession and beyond it. Much of what is said of writing for periodicals, etc., applies to some and not to others; it applies especially to beginners; and this is no doubt an important point in the subject we are considering. It checks freedom at the outset. To those who have acquired a name it does not apply. Writing as a means of livelihood or for pecuniary gain should, as already said, be looked on as quite distinct from the general pursuit of learning and literature. It will always be found so in point of fact. All businesses have their accurate rules incompatible with freedom. Whether there is to be profit or not in literature cannot be known beforehand, and should not be counted on. If one writes to suit the public market it is a different thing, and he must act much the same as in other markets.

Just and fair laws and rules, however, are here of importance;

¹ Mem. Marg. Fuller.

² See Notice, with approval, of an Italian treatise (Co. Pécchio) on the Laws of Literary Publications, in Knight's "Knowledge is Power," p. 417.

³ Vicens. Knox, Wint. Even. 5 Brit. Ess. v. 29, p. 33, 36.

for laying profit out of account and even expecting expense, a person should be able to count upon something. A subject is not popular, but there are always *some*, however few, who take an interest in it. There should be the chance of a buyer now and then. But it is only an instance of what we have at present, when we are told of "a man of unquestionable character and scholarship who wrote a suitable and intelligent book on an important subject, and at his own expense published it by a distinguished publisher,"¹ finding, at the end of a year, when he came to settle his account, only three had been sold, and two of these to members of his own family. It is as if being known to friends, etc., were the reason for buying, and when we come to the general public they expected to know an author as a public man in some way or another. Why could they not buy at their own risk? They could form a true enough opinion of a book by looking at a passage here and there, or turning to some important place, or to one subject they already knew something of, and thus judge even better than from a review notice of the way the subject was treated. There should be nothing of a private kind to annoy them—nothing but the *bona fide* matter of the book; with other things they have nothing to do. So far the public seem to act on this, but then it is all on the *negative side of not buying*, either not trusting to their own judgment or fearing to be troubled with private particulars; but strict secrecy is the co-relative of publishing.

Let the distinction always be kept in view between learning or science, and literature as a profession; but, as already said, there should be justice; for it is not meant that profits are to be renounced, so that, should a subject prove popular, there are to be no profits taken. However small these are it should be same—that is, no extreme separation made, as if one thing for sale and another be given away. That this last is often done should lead to no mistake—no more than the ordinary presentation copies of any work. It would be like taking advantage of generosity; but it is more important than that; for everyone thinks more of what is bought than what he gives away, independent of any idea of profit. The public, too, have rights; for, however few, there

¹ J. H. Hunter, Book Hunting, p. 183.

may be *some* who would wish to possess, and as they cannot be known, how are they to be reached but by sale? We think of large numbers when we use the term *public*, but here it means, it may be, only a few or any one. Totally to exclude altogether is quite a different thing from no profit. Before profit can be reached there must be *large* numbers sold; and though there should be *many*, still it might be for no pecuniary gain. It is unfair and untrue to say there are mercenary motives where there is *any* gain at all, though only towards expenses. We speak of only what it is in point of fact, and not as a matter of opinion or fashion. Of course, some may renounce at the outset all claim to profit, or, as is sometimes done, hand it over to somebody else; but this is not the general rule; and is no part of that freedom and independence we treat of; which, so far from avoiding profit, might be very glad of it, as most men are, though prizes still more freedom and independence. Besides, the two things cannot well be separated; if a person has bestowed time and care on anything, there will always be *some*, however few, who will be glad of it, though to speak of profit is another matter; just as labour makes all property of some value, and seldom is anything absolutely worthless upon which it is bestowed.

The *exact* rights of property should here be attended to, for they drag in important explanations, more valuable probably than any pecuniary considerations. It is connected too, with getting a hearing, which no one will suppose he gets when *no one* reads. It would be mortifying to meet with approval in only a very few—like faint praise. In that case he would turn his attention to another subject. There are no doubt many other considerations that will always enter into this matter, but the right rule which lies at the foot of all, should be known. “Truth is well paid when seen and heard.”¹ This is all that is asked; but it includes fairness in all business rules and understandings, whether there is to be profit or loss. The word honour is sometimes used as if it excluded this; but anything is quite honourable, though it include exactness in business, and profit too, if that fairly comes. Business as a means of livelihood, *always* means profit; and this distinguishes it by a marked line from what we are considering,

¹ Bishop Corbet.

which does not look for profit in the first place, when it does it becomes much the same as other professions. As the poet says :—

“No ! 'tis not worldly gain, although by chance,
The sons of learning may to wealth advance ;
Nor station high though in some favouring hour
The sons of learning may arrive at power.

But to the minds own feelings give the joy,
Pleasures she gathers in her own employ.”¹

“He that looks for gain by learning, with him it has perished,” says another. But, notwithstanding this, a fair hearing must always include the same common ground of buying and selling as all businesses and professions. To bring goods to the market is the fair criterion and test of their value; it is the fair way, also of allowing any that chooses to purchase, and it is the buyer should judge the value. Forestalling and engrossing markets are unfair and illegal.

With a certain measure of security, one may buy anything exposed in the market for sale; and it is only something unusually wrong when the purchaser has to go back and undo the bargain, as when the quality is not only inferior but spurious; in which case the seller is liable to punishment. In other cases it is the buyer that runs the risk and should be on his guard, according to the motto *caveat emptor*. In literature he might be disappointed at what he bought, but since, as we have said, it requires a *very large* number before even the beginning of profit is reached, there is less temptation in it than in other things to offer anything of even inferior value, and to read a little here and there gives a better sample than we can get in many other things. No harm, however, though there was even a higher standard than we have as to the *bond fide* nature of the goods. To ask explanations and particulars should always imply something *very* wrong. It is indeed the first step in law proceedings; and even though not meant to be followed up, is like annoying and injuring a person by vexatious and groundless lawsuits, for which last, however, there would probably be damages obtained in the end, which, of course, are not to be had here. It is only the right rule that is here

¹ Crabbe's Borough, 424.

meant, for none can prevent this injury ; but very much depends on general opinion. It is not to be supposed that any person means positively to injure himself, or to do what will be entirely without effect, though he may not be seeking profit ; that is always to be supposed at the outset.

It may be thought that we have all this at present ; but it is too like as if goods in a market were concealed, or that none knew of their existence. There is no doubt that towards the public there is everything almost that could be wished ; and it will be said we do not want more. But still a *single individual* will find it difficult to *get a hearing* even. There are so many to pick and choose from that the buyer has the advantage, and the rejection of many is no loss to him, but the seller feels that ; and great interest or great expense is needed, which is more than merely bringing goods to market and exposing them. Sometimes the most popular writings have at the outset met the very same treatment as those rejected. In competition the slightest thing will put a purchaser from buying. To mention that a certain dish had been offered in sacrifice would, in early Christian days, put a person from eating it ; in general there was no occasion for him asking or the others telling. To give a bad name, however groundless, is quite enough, and so injury is easily done. Nothing whatever, then, should be said. A purchaser might have a strong dislike to a person who wrote a book ; but no occasion for him knowing this or anything not contained in the book itself. He is to look at it and judge for himself as he would with any other article ; its genuineness may be guaranteed, but nothing else. Concealing private particulars is the co-relative of publishing. To keep secrets is an important part of business ; but, of course, is easily violated. The secrecy should be real, otherwise what is secrecy to the great mass of people might not be so to the very persons who take or might take an interest in the subject. It is to injure in detail. Honourable considerations should come in the same as they do at a dinner table, where no one would ask or expect to be told anything concerning the value or the preparation of a dish. Questions may be discouraged where the fair rule is acknowledged. The honest answer of an honourable man, and very often of those who manage for others, is, "I have nothing to

do with that"—no parleying even with temptation, for, "for a piece of bread such a person would transgress." Anything else does not pertain to the subject, and so is literally impertinent.

Such considerations have a bearing upon the retirement, privateness, anonymity suitable to that class of whom we have been treating ; to others they may not be so applicable. It is natural to suggest private distribution or sale, but that is a different thing. To charge a fair price, or to refuse to undertake, is a part of liberty ; and even a poor person would prefer that to efforts which must be useless ; and that it might keep many back is no proper objection. It is *exact adherence* to law that should regulate this. If it cannot be done fairly, better not attempt it at all. Where no profit is expected there is apt to be carelessness and advantage taken, as if everything were of no consequence. To tell whatever ought to be told, as well as secrecy, is part of fair business rules.

In every profession there is what we may call an infield and outfield. There is more of the last or what is irregular in some than in others. There is least room for it in the medical profession, and an opprobrious name is given to those who have not passed through all the regular trials. But in other professions and businesses there is more room for it. The excluding it altogether, as by guilds, hampered trade ; and monopolies, and close corporations, have always been allowed to be an evil. If, however, freedom, or this outer region, is not interfered with, there is no occasion for saying anything against the former, which is useful among other things in checking the abuses of freedom. This outfield should be let alone, only affording it the fair protection that exact law and rule give. It is like the outfields of a farm or the unclaimed lands of a new country—there is more of nature. However careful we might be in the selection of those whom we might enable to spend their time studiously, and however numerous they might be, there would always be some overlooked, and it would be found something different from the entirely voluntary efforts and application of those who might come to feel their way to such pursuits as they prefer. No amount of training will make up for a want of natural liking ; and we cannot have this without

perfect freedom with all these difficulties and hardships that attend it.

There should be a fair understanding on this, because there are sometimes complaints as if there should be endowments for every one; and it is forgotten that some of the hardships or disadvantages cannot be avoided, or are what many in certain circumstances must expect. It is just again expecting *for all* the advantages of riches; and thus excluding those who are not. It is not going to the bottom; and leaves out the very class we are considering. Thus, we are accused of "starving our literary men; we make them a disqualified class, with us they are nobodies,"—"hold no position in our social scale, are of no profession"—"no repute"—"influence"—"shunned by the publishers who live on the products of their brain."¹ Only they are "not sent to prison"—this merely. Part of this points to something illegal, part to what may apply to some and not to others, much to what is unreasonable. We have said something of literature not being a profession but personal. No one can have a name till he has made himself one. In another view the privacy and retirement implied in this is what many would prize; but as said at the outset it is a wide word and subject, and part of it may be professional, but to be a leader or orator is something different it should be remembered. It is no small matter to get personal security, and it is to get the same security for *all rights* that is the desirable thing. Law and protection to property and rights carried farther out. This is all some would ask who would not care for or seek for the social position above alluded to.

There is no objection to those endowments and small situations in universities. On the Continent there are numbers of such minor situations and fields of employment, called private instruction. This is a good feature, and in harmony with the prospects we are considering; but, of course, it is applicable only to a few, and for a short time in general. The more of it the better. To teach others is a good way of acquiring accurate knowledge for one's self. It favours freedom of inquiry, for in other situations the teachers are expected and bound to have fixed and definite views. It would also help to form a class in the same situation

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This brings us, however, to those who do not pretend to be teachers, or even scholars, perhaps—to those who are merely readers, and we may suppose all are that. As already said, they have much in common with those above alluded to, and, at all events, their prospects may look that way. There may even be a kind of mixture sometimes, as teaching in one thing, reading or learning in another, or at one time and not at another. But we may say there is a kind of inclined plane, with distinct steps here and there, from strict professions and business situations down to entire freedom, irregularity, or idleness even. To be idle, if one chooses, makes the great distinction from business. It is a right difficult to get allowed. That an idle person is as much entitled to all his rights as a person employed in business is apt to be forgot. A person may not intend to be idle, but the liberty of taking up and laying down anything he is engaged in, just as he chooses, is important, and is, as already said, what a business-man cannot pretend to. The latter, in general, makes a distinct bargain for his time, for which he is paid, which

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There is always a very distinct and important difference here. Everything in business can be regulated and accounted for; we are in a great measure certain of everything. There are a fixed set of duties and fixed times for everyone. This is liked not only in business but in other things. In general life it gives rise to customs and habits, and laws and rules lead to more of it. If there was nothing else it would destroy freedom altogether; but of course it has its limits, and there are some things we must let alone; either we cannot foresee them, or they are what all claim to have a right to act in just as they choose. But it is clear there may be various degrees. There may be oppressive laws and rules, and the customs of society have sometimes been called a petty social tyranny. Though a person cannot escape from laws, which all are bound to obey, yet the other things are voluntary, though of course he may suffer the consequences more or less serious of not following them. These consequences should be fair and right. If one does not adhere to customs it is but fair he should not reap the benefits. If he takes advantage of freedom he gets what it can give him, but loses something else. We may make the consequences more serious than they should be, however. A wrong or bad opinion even, independent of the actions it may lead to, is injurious. There is a tendency to view what is merely not pleasing to us as something more serious than it is, to consider it morally wrong perhaps, or to deny its being right or lawful.

There is very great evil in all this, for it pushes some to go farther than they otherwise would—to be downright lawless to secure their freedom. We cannot have the same certainty in this out-field as in business; nor can we know so well and be so certain of those out of society as those in it, no more than we can be of those we merely see passing along a road. We do not know what they are doing, but with that properly we have nothing to do. Even though we suspected wrong we can do nothing till there is some distinct unlawful act. This is the great safeguard of liberty, and it should be in the hearts of all, and acted on as the rule at all times and in all things, whether of literal law or mere voluntary law. We must wait till a wrong is done, "then judge."

Though one goes up to the exact boundary of his property, it does not follow he is going to cross it. Those who are free, no doubt are free to do wrong—otherwise it is not freedom—but as we cannot tell who or when, any will do so, all must be treated alike and no distinctions made.

There is a just medium in this treatment however. We must not treat all as if they were lawless, or something equivalent to that, whether in social, civil, or political things. On the other side, we need not try to treat them as if they were members of the inner circle. There are abuses in both extremes. Thus, in the last case, as we cannot admit *all*, we may admit a few, those whom we think fit. But this, of course, is unfair to others; besides not being what is wanted. Some are entitled to privileges, and in social life we treat with unusual confidence those whom we know in society. But keep these, and such like things, in their proper place, and do not extend them to those not entitled to them; for this leads us to substitute this in place of what is suitable for all, equal impartial rights; and to treat others as lawless, or at least without rights. A good number may be treated in this confidential way, and as it is liked, and seemingly makes more of that smoothness and security which are agreeable, it is very apt to be thought right and to spread. There may be too much, however, of even good things; too much polish, too much security, and, as allied to them, too much luxury. On the other side it tends to give rise to too large a lawless class; for although, as already said, a good many may be thus treated, it must still leave out the greatest number, and many of these will be tempted to what is lawless merely by being so treated. It is only fair civil rights, and the adherence to the fair law of manners, that will answer,—what cannot be wrong, but does equal justice to all. We may think this will include more than are entitled to it or deserve it; but this is what cannot be helped, for it is one of those things that, like the light of the sun, extends itself to all.

There is always a disposition not only to avoid temptation, but to seek over-security. We see this especially in social life; but it is one of the risks that must be run. Anything that has never been tried cannot equal what has been proved. It is the same in morals as in what has to bear a weight. There is a strong tend-

ency to warp laws even, so as to avoid risks ; but there are corresponding disadvantages, more especially when things are viewed on the whole, and as a general rule bearing on the entire community. In the wider sphere of political and civil life we see the same thing, though not so directly moral ; the same disposition to seek too much security and certainty, and to hamper if not suppress, and unfairly treat freedom. Even liberty itself, when it gains the upper hand, has a tendency to do so. Risks must be run if we would have people ever to learn. Abuses are not always a reason for suppressing things.

It may seem inconsistent to seek freedom for this outfield, and then say it should not be lawless ; for this is as it were depriving it of liberty again. But there is a distinct step between even this outfield and something farther yet ; just as an outfield might be distinguished from barren land that no one claimed—the freedom of an outfield without inclosures, but still having boundaries. We cannot be sure whether the boundaries are crossed or not, but still they are there, though different from walls or fences, that make us quite secure. The question very much comes to be, "What is the fair way to treat a stranger?" We cannot be too confidential, nor should we be too distant, suspicious, or rude, for he might turn out to be, on the one hand, one with whom we were connected, or, on the other, might be an impostor, spite of appearances. We should have a restraint, therefore, in our intercourse, different from social life, and not judge by appearances beyond a certain general measure. It is this restrained, guarded, civil treatment, we should give to all. At the same time there are certain general outward marks here, too, that we go by. They pertain, we may say, to outward decencies and civilized life. In public we do not expect to see people in rags, etc. There is a certain dress all are expected to have, and the want of it (as of a coat) attracts notice, and puts the person, as it were, into a different class. This, however, pays no regard to the value or fashion of the dress ; that pertains to social life, and not to civil. In dwellings there is something analogous ; certain decencies there, pertaining to health and civilized life, are expected to be attended to ; but these again are different from elegancies and fashions that may exist in more public and higher grades. There is more of

what is private, and provided health and decencies are attended to, with the rest we have nothing to do. It thus allows more freedom. Some of these things certainly are not unlawful, but they are distinct things or acts, and entitle us to put the person who does them on a different footing; they are the transgression of the rules of civilized life at least; and in some cases, as on account of health in overcrowding, they are distinctly unlawful; but still, doubtless, care should be taken that, by unduly extending them, we do not injure liberty. They are all, however, definite and distinct, so that there need be, and should be, no mistakes made. It is this definiteness that makes the limit, otherwise they might be made a tool of.

Though this more strained and guarded intercourse does not put us at our ease, as in social life, we may find it interesting and advantageous in another way. It involves a better exercise of the understanding. It is to watch every appearance and judge by what is said, and gradually to form an opinion accordingly; we ourselves having to take a corresponding care. There is at least a kind of respect paid to one another in this. There are no extraneous or private circumstances to bias, warp, or lower our opinions. If persons come to get better acquainted they may still care for nothing more perhaps. If they keep to public general topics, or any subject they are each interested in, they need not care for private particulars. This, however, is always on a tacit understanding that nothing else is to be dragged in; that no particulars which one of the parties might chance to hear of were to be made a reason for claiming a closer acquaintance or anything else; and it is the dread of something of that kind probably that keeps people at a greater distance from one another than need be. Such intercourse is what all have to learn in some degree when they first go out into the world, as in travelling. And the proper thing is to correct either too much familiarity with strangers or too much reserve or caution—being either too secure and bold, or too cautious and afraid. In the latter case we will often lose much excellent knowledge and information, and miss acquiring that experience in life that might be useful afterwards in circumstances where we had no choice.

"Publish your thought. It is not a right, it is a duty. . . . Bring to the light of day for the good of the community."—*Paul Louis Courier*, Pamph. des Pamph., 1824, p. 116, Ed. 1837.

CHAPTER III.

LAW AND LIBERTY, ETC., MORE PARTICULARLY CONSIDERED.

Freedom difficult to get allowed. Distinct from transgression. Equal rights to all. Great evil of lawlessness. Those who read and listen. How to be classed; business and pleasure. Is a difference not of mere feeling. Riches: their fair use and limits. Public and private. Contentment with little. Rights; and Independence.

" But truth by faithful search explored,
And social sense, like seed, in genial plenty sown,
Wherever it took root the soul restored
To freedom; freedom, too, for others sought."

—Akenside, Od. 7, 7, 13.

It is difficult to get equal civil treatment despite of certain differences. Thus it is sometimes said, "Be distinctly one thing or another," and this is what is liked; but here it is the very opposite that is the right thing. It is where we ought to abstain from judging. It is to leave a middle way—a neutral ground—room for what may be either one thing or another—what we may take either way we choose, in some one thing in others another—what may include riches and power, or do so at least within certain wide limits. The laws and rules that mark it are wide and general, and in this distinguished from what is more exclusive, as in society and places where there are special rules that limit things. This is the middle ground of public civil life, including a great deal—neither restrained by the rules, fashions, and ceremonies of social life nor yet setting all rules and laws at defiance. It must be allowed to go a great way in this direction—and it is this which makes the difficulty—for it is entitled to go to the verge of its rights, like one that goes up to the very boundary of his property. It is free, that is able, to transgress laws if it chooses; and like one at the boundary of his property, with no wall to prevent him, we may be afraid and can never be sure but what there will be transgression some time or other. How could we prevent this? To keep a person at a distance from the boundary line would be the same as to deprive him of so much of his property, and in the other analogous case to deprive him of liberty. Build a wall, it may be said, and that would answer

what is private, and provided health and decencies are attended to, with the rest we have nothing to do. It thus allows more freedom. Some of these things certainly are not unlawful, but they are distinct things or acts, and entitle us to put the person who does them on a different footing; they are the transgression of the rules of civilized life at least; and in some cases, as on account of health in overcrowding, they are distinctly unlawful; but still, doubtless, care should be taken that, by unduly extending them, we do not injure liberty. They are all, however, definite and distinct, so that there need be, and should be, no mistakes made. It is this definiteness that makes the limit, otherwise they might be made a tool of.

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Bring to the
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Pamph. de

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where it could be done ; but it could not be done where there was a river or the sea. In the same way we may secure as much as we can by law from being injured by freedom, but we must not trench on it, and there are always some things that we cannot fairly secure. It is this risk that must be run—this we must not grudge ; we must not suppose we can possess liberty without risk : the things are inconsistent. It is hardly necessary to add that intelligence and conscientiousness must form the best and only check, like one whom we know will not transgress beyond the boundary of his own property.

Lawlessness is a distinct thing, and generally has marks more or less visible. We would see more of these if we would look for them—if we would be more particular and vigilant as to trifles ; for, like the signature to a paper, they are often scarcely noticeable and yet they are certain. We know what it is in politics—force and violence, intimidation, bribery and corruption ; in civil things it is fraud, imposture, deceit, evading taxes, rates, and payment of debts though able to pay, injustice in matters of property and rights, conspiracies, etc. ; in social things it is not so discernible, but should be more regarded than it is ; and among those not in society it is still less discernible as they are subject to fewer rules, still all have neighbours, and some that they meet with to whom they may act unfairly. These are all accompanied with distinct acts, which can be perfectly well known, even though, like fraud, they are concealed at the time. But there are many outward appearances which are apt by some to be classed with them which are not really lawless, such as roughness or noise treated the same as blows, or what is only poverty the same as beggary, and all the other appearances may in like manner be exaggerated and perverted. These may be against the rules of society, but out of that sphere are not unlawful, and we ought not to judge by mere appearances.

This distinction indeed is always so far made. We see and know when a person breaks the law. But we ought to carry it out farther, and more particularly and distinctly—mere outward and literal law, important as it is, is not enough. Thus we saw above that one writer, in complaining of the neglect of literary men, says, that they are merely “not imprisoned,” that they are considered “nobodies.” Now this, if meant of the voluntary

attentions of society, it is vain to complain of, but it points probably to other things. All are equally entitled to rights, whether rich or poor. To treat a person as a nobody cannot be lawful in civil life, though it might be applicable to society. In proportion as there is less society civil things become of more importance, taking its place almost. To a person in retirement, who as much as possible might wish to escape from both society and civil occupations, there is almost every day some civil piece of business to attend to. There are all the rights connected with property, in which sometimes he may be a sharer with others, possessing the same rights. Letters, notices, signatures, are all civil things, and generally bring in other civil things along with them. There are rights in societies, institutions, public places, all which should be exact, for they merely become more important to such a person. It should not require the check of a yearly voluntary payment to secure them, and even that is but little check without the knowledge and disposition to act fairly and impartially ; and yet there may be the disposition to take advantage of such persons not in business, or in the bustle of civil life. Instead of *less care*, more is required in such cases, if we mean to give everyone his due ; all may be sure of going right with the rich, or with the active man of business, while it is not so with a poorer man. It is only the *civil reality* that is meant, there might be outward forms making an expense. It is only to ceremony and form that such a person might be indifferent ; but, it is apt to be unfairly supposed he is indifferent to civil things. This carrying out should not be confined to mere literal law and property, where it cannot well be evaded, but extended to everything, and equally to all. Ceremony is the mere mode of doing a thing, but we must not call ceremony and mere matter of form, anything which conveys information, notices, etc.

As already said, even the person who retires most, and who has no regular business, will find that every day he has some piece of business to attend to—it may be only to purchase something. This to him is business, we do not call him a business man merely because he is not doing it constantly and regularly. It connects him with civil things and civil life as much as more of it would do. In the case of a poorer man there is more of this, for he has

to do things himself which the rich may employ others to do for him. There is such a thing as *ennui* when a person has too little to take care of or trouble him. In another form, however, the rich gets his rights, and performs his duties in these things. None can properly, and compatible with equal justice to all, be altogether set aside as "nobodies." As a political writer says, "The political community within whose territory he resides has a right to the faithful discharge of the duties incumbent on all its constituent members."¹ It is as easy here to observe the fair medium as in other things, for here there might be the minimum of civil and political duties. Some duties are voluntary, others paid for in their discharge, but a minimum of duties in one who wished retirement is different from any unfair evasion.

There may be some who unfairly evade duties, and others who unlawfully do so; but it is right here, as in everything of a like kind, to give all proper care to distinguish between apparent resemblances—to separate good from evil. Nowhere is this distinction more called for, for we do not wish to destroy liberty and independence, and there is always a tendency to extremes. The way that the charms of freedom have been sung may even deceive and lead some on to think that it is lawlessness that makes the charm. A poet has sung the praise of those who prey on society,—

" Sans pays,
Sans prince, et sans lois,
Notre vie est dignè d'envie."²

"Without country, without prince, and without laws, our life is worthy of envy." Of this lawlessness those who write in journals have been accused, as priding themselves in it; and conformity to all the rules of society praised. It is added that it is now on the decline, and the rules of society and civilized life more and more conformed to. But it might be said that a proper medium is the right thing, for otherwise we are just again giving everything to the rich and prosperous. There is a great difference between the rules of society and those of civilized life. They are quite distinct. To be "without laws" and country may be little else than one in retirement out of society; or it may be that unfair neglect we saw

¹ Angus Macaulay, Pol. Scien., p. 226.

² Beranger's ode, "Les Bohemiens."

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There is no objection to those endowments and small situations in universities. On the Continent there are numbers of such minor situations and fields of employment, called private instruction. This is a good feature, and in harmony with the prospects we are considering; but, of course, it is applicable only to a few, and for a short time in general. The more of it the better. To teach others is a good way of acquiring accurate knowledge for one's self. It favours freedom of inquiry, for in other situations the teachers are expected and bound to have fixed and definite views. It would also help to form a class in the same situation

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the other does not, and there should be no grudging of his fair rights.

There is always a very distinct and important difference here. Everything in business can be regulated and accounted for; we are in a great measure certain of everything. There are a fixed set of duties and fixed times for everyone. This is liked not only in business but in other things. In general life it gives rise to customs and habits, and laws and rules lead to more of it. If there was nothing else it would destroy freedom altogether; but of course it has its limits, and there are some things we must let alone; either we cannot foresee them, or they are what all claim to have a right to act in just as they choose. But it is clear there may be various degrees. There may be oppressive laws and rules, and the customs of society have sometimes been called a petty social tyranny. Though a person cannot escape from laws, which all are bound to obey, yet the other things are voluntary, though of course he may suffer the consequences more or less serious of not following them. These consequences should be fair and right. If one does not adhere to customs it is but fair he should not reap the benefits. If he takes advantage of freedom he gets what it can give him, but loses something else. We may make the consequences more serious than they should be, however. A wrong or bad opinion even, independent of the actions it may lead to, is injurious. There is a tendency to view what is merely not pleasing to us as something more serious than it is, to consider it morally wrong perhaps, or to deny its being right or lawful.

There is very great evil in all this, for it pushes some to go farther than they otherwise would—to be downright lawless to secure their freedom. We cannot have the same certainty in this outfield as in business; nor can we know so well and be so certain of those out of society as those in it, no more than we can be of those we merely see passing along a road. We do not know what they are doing, but with that properly we have nothing to do. Even though we suspected wrong we can do nothing till there is some distinct unlawful act. This is the great safeguard of liberty, and it should be in the hearts of all, and acted on as the rule at all times and in all things, whether of literal law or mere voluntary law. We must wait till a wrong is done, "then judge."

Though one goes up to the exact boundary of his property, it does not follow he is going to cross it. Those who are free, no doubt are free to do wrong—otherwise it is not freedom—but as we cannot tell who or when, any will do so, all must be treated alike and no distinctions made.

There is a just medium in this treatment however. We must not treat all as if they were lawless, or something equivalent to that, whether in social, civil, or political things. On the other side, we need not try to treat them as if they were members of the inner circle. There are abuses in both extremes. Thus, in the last case, as we cannot admit *all*, we may admit a few, those whom we think fit. But this, of course, is unfair to others; besides not being what is wanted. Some are entitled to privileges, and in social life we treat with unusual confidence those whom we know in society. But keep these, and such like things, in their proper place, and do not extend them to those not entitled to them; for this leads us to substitute this in place of what is suitable for all, equal impartial rights; and to treat others as lawless, or at least without rights. A good number may be treated in this confidential way, and as it is liked, and seemingly makes more of that smoothness and security which are agreeable, it is very apt to be thought right and to spread. There may be too much, however, of even good things; too much polish, too much security, and, as allied to them, too much luxury. On the other side it tends to give rise to too large a lawless class; for although, as already said, a good many may be thus treated, it must still leave out the greatest number, and many of these will be tempted to what is lawless merely by being so treated. It is only fair civil rights, and the adherence to the fair law of manners, that will answer,—what cannot be wrong, but does equal justice to all. We may think this will include more than are entitled to it or deserve it; but this is what cannot be helped, for it is one of those things that, like the light of the sun, extends itself to all.

There is always a disposition not only to avoid temptation, but to seek over-security. We see this especially in social life; but it is one of the risks that must be run. Anything that has never been tried cannot equal what has been proved. It is the same in morals as in what has to bear a weight. There is a strong tend-

ency to warp laws even, so as to avoid risks ; but there are corresponding disadvantages, more especially when things are viewed on the whole, and as a general rule bearing on the entire community. In the wider sphere of political and civil life we see the same thing, though not so directly moral ; the same disposition to seek too much security and certainty, and to hamper if not suppress, and unfairly treat freedom. Even liberty itself, when it gains the upper hand, has a tendency to do so. Risks must be run if we would have people ever to learn. Abuses are not always a reason for suppressing things.

It may seem inconsistent to seek freedom for this outfield, and then say it should not be lawless ; for this is as it were depriving it of liberty again. But there is a distinct step between even this outfield and something farther yet ; just as an outfield might be distinguished from barren land that no one claimed—the freedom of an outfield without inclosures, but still having boundaries. We cannot be sure whether the boundaries are crossed or not, but still they are there, though different from walls or fences, that make us quite secure. The question very much comes to be, “What is the fair way to treat a stranger?” We cannot be too confidential, nor should we be too distant, suspicious, or rude, for he might turn out to be, on the one hand, one with whom we were connected, or, on the other, might be an impostor, spite of appearances. We should have a restraint, therefore, in our intercourse, different from social life, and not judge by appearances beyond a certain general measure. It is this restrained, guarded, civil treatment, we should give to all. At the same time there are certain general outward marks here, too, that we go by. They pertain, we may say, to outward decencies and civilized life. In public we do not expect to see people in rags, etc. There is a certain dress all are expected to have, and the want of it (as of a coat) attracts notice, and puts the person, as it were, into a different class. This, however, pays no regard to the value or fashion of the dress ; that pertains to social life, and not to civil. In dwellings there is something analogous ; certain decencies there, pertaining to health and civilized life, are expected to be attended to ; but these again are different from elegancies and fashions that may exist in more public and higher grades. There is more of

what is private, and provided health and decencies are attended to, with the rest we have nothing to do. It thus allows more freedom. Some of these things certainly are not unlawful, but they are distinct things or acts, and entitle us to put the person who does them on a different footing; they are the transgression of the rules of civilized life at least; and in some cases, as on account of health in overcrowding, they are distinctly unlawful; but still, doubtless, care should be taken that, by unduly extending them, we do not injure liberty. They are all, however, definite and distinct, so that there need be, and should be, no mistakes made. It is this definiteness that makes the limit, otherwise they might be made a tool of.

Though this more strained and guarded intercourse does not put us at our ease, as in social life, we may find it interesting and advantageous in another way. It involves a better exercise of the understanding. It is to watch every appearance and judge by what is said, and gradually to form an opinion accordingly; we ourselves having to take a corresponding care. There is at least a kind of respect paid to one another in this. There are no extraneous or private circumstances to bias, warp, or lower our opinions. If persons come to get better acquainted they may still care for nothing more perhaps. If they keep to public general topics, or any subject they are each interested in, they need not care for private particulars. This, however, is always on a tacit understanding that nothing else is to be dragged in; that no particulars which one of the parties might chance to hear of were to be made a reason for claiming a closer acquaintance or anything else; and it is the dread of something of that kind probably that keeps people at a greater distance from one another than need be. Such intercourse is what all have to learn in some degree when they first go out into the world, as in travelling. And the proper thing is to correct either too much familiarity with strangers or too much reserve or caution—being either too secure and bold, or too cautious and afraid. In the latter case we will often lose much excellent knowledge and information, and miss acquiring that experience in life that might be useful afterwards in circumstances where we had no choice.

"Publish your thought. It is not a right, it is a duty. . . . Bring to the light of day for the good of the community."—*Paul Louis Courier*, Pamph. des Pamph., 1824, p. 116, Ed. 1837.

CHAPTER III.

LAW AND LIBERTY, ETC., MORE PARTICULARLY CONSIDERED.

Freedom difficult to get allowed. Distinct from transgression. Equal rights to all. Great evil of lawlessness. Those who read and listen. How to be classed; business and pleasure. Is a difference not of mere feeling. Riches: their fair use and limits. Public and private. Contentment with little. Rights; and Independence.

" But truth by faithful search explored,
And social sense, like seed, in genial plenty sown,
Wherever it took root the soul restored
To freedom; freedom, too, for others sought."

—*Akenside*, Od. 7, 7, 13.

It is difficult to get equal civil treatment despite of certain differences. Thus it is sometimes said, "Be distinctly one thing or another," and this is what is liked; but here it is the very opposite that is the right thing. It is where we ought to abstain from judging. It is to leave a middle way—a neutral ground—room for what may be either one thing or another—what we may take either way we choose, in some one thing in others another—what may include riches and power, or do so at least within certain wide limits. The laws and rules that mark it are wide and general, and in this distinguished from what is more exclusive, as in society and places where there are special rules that limit things. This is the middle ground of public civil life, including a great deal—neither restrained by the rules, fashions, and ceremonies of social life nor yet setting all rules and laws at defiance. It must be allowed to go a great way in this direction—and it is this which makes the difficulty—for it is entitled to go to the verge of its rights, like one that goes up to the very boundary of his property. It is free, that is able, to transgress laws if it chooses; and like one at the boundary of his property, with no wall to prevent him, we may be afraid and can never be sure but what there will be transgression some time or other. How could we prevent this? To keep a person at a distance from the boundary line would be the same as to deprive him of so much of his property, and in the other analogous case to deprive him of liberty. Build a wall, it may be said, and that would answer

where it could be done ; but it could not be done where there was a river or the sea. In the same way we may secure as much as we can by law from being injured by freedom, but we must not trench on it, and there are always some things that we cannot fairly secure. It is this risk that must be run—this we must not grudge ; we must not suppose we can possess liberty without risk : the things are inconsistent. It is hardly necessary to add that intelligence and conscientiousness must form the best and only check, like one whom we know will not transgress beyond the boundary of his own property.

Lawlessness is a distinct thing, and generally has marks more or less visible. We would see more of these if we would look for them—if we would be more particular and vigilant as to trifles ; for, like the signature to a paper, they are often scarcely noticeable and yet they are certain. We know what it is in politics—force and violence, intimidation, bribery and corruption ; in civil things it is fraud, imposture, deceit, evading taxes, rates, and payment of debts though able to pay, injustice in matters of property and rights, conspiracies, etc. ; in social things it is not so discernible, but should be more regarded than it is ; and among those not in society it is still less discernible as they are subject to fewer rules, still all have neighbours, and some that they meet with to whom they may act unfairly. These are all accompanied with distinct acts, which can be perfectly well known, even though, like fraud, they are concealed at the time. But there are many outward appearances which are apt by some to be classed with them which are not really lawless, such as roughness or noise treated the same as blows, or what is only poverty the same as beggary, and all the other appearances may in like manner be exaggerated and perverted. These may be against the rules of society, but out of that sphere are not unlawful, and we ought not to judge by mere appearances.

This distinction indeed is always so far made. We see and know when a person breaks the law. But we ought to carry it out farther, and more particularly and distinctly—mere outward and literal law, important as it is, is not enough. Thus we saw above that one writer, in complaining of the neglect of literary men, says, that they are merely “not imprisoned,” that they are considered “nobodies.” Now this, if meant of the voluntary

attentions of society, it is vain to complain of, but it points probably to other things. All are equally entitled to rights, whether rich or poor. To treat a person as a nobody cannot be lawful in civil life, though it might be applicable to society. In proportion as there is less society civil things become of more importance, taking its place almost. To a person in retirement, who as much as possible might wish to escape from both society and civil occupations, there is almost every day some civil piece of business to attend to. There are all the rights connected with property, in which sometimes he may be a sharer with others, possessing the same rights. Letters, notices, signatures, are all civil things, and generally bring in other civil things along with them. There are rights in societies, institutions, public places, all which should be exact, for they merely become more important to such a person. It should not require the check of a yearly voluntary payment to secure them, and even that is but little check without the knowledge and disposition to act fairly and impartially ; and yet there may be the disposition to take advantage of such persons not in business, or in the bustle of civil life. Instead of *less care*, more is required in such cases, if we mean to give everyone his due ; all may be sure of going right with the rich, or with the active man of business, while it is not so with a poorer man. It is only the *civil reality* that is meant, there might be outward forms making an expense. It is only to ceremony and form that such a person might be indifferent ; but, it is apt to be unfairly supposed he is indifferent to civil things. This carrying out should not be confined to mere literal law and property, where it cannot well be evaded, but extended to everything, and equally to all. Ceremony is the mere mode of doing a thing, but we must not call ceremony and mere matter of form, anything which conveys information, notices, etc.

As already said, even the person who retires most, and who has no regular business, will find that every day he has some piece of business to attend to—it may be only to purchase something. This to him is business, we do not call him a business man merely because he is not doing it constantly and regularly. It connects him with civil things and civil life as much as more of it would do. In the case of a poorer man there is more of this, for he has

to do things himself which the rich may employ others to do for him. There is such a thing as *ennui* when a person has too little to take care of or trouble him. In another form, however, the rich gets his rights, and performs his duties in these things. None can properly, and compatible with equal justice to all, be altogether set aside as "nobodies." As a political writer says, "The political community within whose territory he resides has a right to the faithful discharge of the duties incumbent on all its constituent members."¹ It is as easy here to observe the fair medium as in other things, for here there might be the minimum of civil and political duties. Some duties are voluntary, others paid for in their discharge, but a minimum of duties in one who wished retirement is different from any unfair evasion.

There may be some who unfairly evade duties, and others who unlawfully do so; but it is right here, as in everything of a like kind, to give all proper care to distinguish between apparent resemblances—to separate good from evil. Nowhere is this distinction more called for, for we do not wish to destroy liberty and independence, and there is always a tendency to extremes. The way that the charms of freedom have been sung may even deceive and lead some on to think that it is lawlessness that makes the charm. A poet has sung the praise of those who prey on society,—

"Sans pays,
Sans prince, et sans lois,
Notre vie est dignè d'envie."²

"Without country, without prince, and without laws, our life is worthy of envy." Of this lawlessness those who write in journals have been accused, as priding themselves in it; and conformity to all the rules of society praised. It is added that it is now on the decline, and the rules of society and civilized life more and more conformed to. But it might be said that a proper medium is the right thing, for otherwise we are just again giving everything to the rich and prosperous. There is a great difference between the rules of society and those of civilized life. They are quite distinct. To be "without laws" and country may be little else than one in retirement out of society; or it may be that unfair neglect we saw

¹ Angus Macaulay, Pol. Scien., p. 226.

² Beranger's ode, "Les Bohemiens."

above as complained of, for the same poet represents the dying vagrant complaining, “What country has the poor man? None!” It probably is in general nothing more than freedom from the trammels of society that is meant,—

“ Let us fly from the land of convention—
The land of restriction and rules ;
Where the passions are held in detention,
And the impulses trammelled by fools.

• • • •
We are out of the bounds of society,
But we do not desire its embrace.”

Much the same as this has been said by writers of the gravest cast. These are mere appearances that might deceive some, especially if conjoined with other expressions as they sometimes are, and lead them on to break through laws altogether; but that is a very distinct thing and always found to be so.

Books, however, have been written on the subject of Bohemianism. It is a word applied in a wide sense, and includes many varieties, but in the main, it may be said to describe those out of society, a large general class of course, as many different causes may give rise to that. It is a pity to give a class name, of somewhat doubtful meaning, to what is only, after all, what we must expect to find in every community—those who, whether from perversity, voluntary choice, or some other cause, are on the outskirts of social life, and who being equally entitled with others to all their rights, differ only in matters of social intercourse. It misleads, to give a name to anything which it only *somewhat* resembles, and it puts a stop to all examination. This word, however, as we have said, includes a great deal: at the one extreme it is very often applied to what is positively unlawful, “reckless, witty, extravagant;”¹ while at the other, in a better sense, it has been said to describe “a man devoted to literature or art, and sternly opposed to the conventionalities of the world in general, and of his own particular profession. This is, indeed, the ideal Bohemian; a being absorbed in some artistic pursuit, and offering, through every detail in his daily career, practical defiance to the world’s ignoble servilities and mediocrities, calmly turning away from the vulgar

¹ M’Carthy—Critical Chapters On the Bohemia of Henri Murger, p. 229.

means of reaching fame, repute, or even respectability ; refusing to bend to dictation of whatever kind for any gain ; and, as a true, practical philosopher, raising himself, his enjoyments, his hopes, and his ambitions into an atmosphere entirely above that of the common race of men around him.”¹ In this latter sense, much of this evidently applies to what we treat of ; for even where there may be no choice in the matter, nor of the ambition of reaching fame and repute entirely above the common run, there may still be a love of literature, a retiring from the conventionalities of the world, a refusal of ignoble servilities, of vulgar means of reaching fame or repute, of dictation for the sake of gain, and a contentment with small enjoyments, at least compared with those around him.

There is the greatest difference between the utmost indulgence in liberty, and overstepping the laws. Thus if one from words comes to blows, at once he may be seized, his case made public, and though his punishment may be slight in itself, it is always something to tell against him. It is the same in other civil things, however trifling we may choose to consider the offence. To shoot a wild animal seems no great offence in itself, and is what youth might readily do, and yet it may lead on to the most serious crimes, and at all events puts the person into an inferior class, which he might never mean to join when first he transgressed, and leads him on from bad to worse.

“ ‘Twas but a trick of youth, would soon be o’er.

But he whose humours spurn law’s awful yoke,
Must herd with those by whom law’s bonds are broke.
The common dread of justice soon allies
The clown, who robs the warren or excise,
With sterner felons trained to acts more dread,
E’en with the wretch by whom his fellow bled.
Then—as in plagues the foul contagions pass,
Leavening and festering the corrupted mass—
Guilt leagues with guilt, while mutual motives draw,
Their hope impunity, their fear the law.”²

Anything illegal, such as fraud or imposition, always puts the person into a very distinct class, and there is no excuse for con-

¹ M’Carthy—Critical Chapters On the Bohemia of Henri Murger, p. 208.

² S. W. Scott, “The Poacher.”

founding with them those whom we merely do not know intimately or are not certain of their exact character. The rule is, that all be held innocent till proved guilty ; and there is a distinct act in all the above transgressions. Granted that this freedom is doubtful, still it should not be judged unfairly by mere appearances, but by facts ; not by the rules of social life, but civil rules. Do not extend the former beyond their proper domain. On the other side it may be said, Let those who seek freedom be content with the liberty to transgress if they choose without doing so, and suppose that that would be sufficient to free them from the trammels of authority and of those to whom they did not wish to submit. The uncertainty and doubt this leaves others in show it is enough of liberty, while the latter, on the other hand, have no right to seek too much security and certainty—in short, have nothing to do with the liberty of others ; and it is well known that it rather provokes transgression by any show of a disposition to unfairly curb liberty. Better concede with a good grace what they, too, in their turn may enjoy.

But to come to those who merely listen and read, and perhaps not much even of that, it is to be remembered that they too are equally entitled to their rights. Here we come to necessity, no choice, whether of society or employment. And this may very well arise when we consider how small a matter may prevent any one from obtaining these. Those who give situations or business, deliberate and pick and choose among many, and the least drawback determines them ; and it is the same in society. Anyone will feel this all the more in proportion as he is particular or not in complying with everything asked or expected. It has been said that “a man in much business must either make himself a knave, or the world will make him a fool.”¹ The wonder comes to be how any succeed. There are reasons we need not enter upon why things are not so bad to many. It is sufficient that such circumstances may very well arise to some, and so it is of the utmost importance that a person should feel independent as far as, and as long as possible. Failures, too, are no uncommon thing. In short, as in everything, however much abundance there may be, we will always come to the last portion, when we are always

¹ Cowley, ap. Melmoth Letts., 67.

taking out of it. What is the least that will do properly, and should do? is the question. It is there we must stop. We must go far enough, but we must not go too far;—it is the foundation, where we ought to act justly and fairly in order to be sure of ourselves, and be able to insist on what we think right;—it is the right of things in contrast to our mere likings or vague opinions which too often are the only rule in society and even civil life.

There is less of hardship in this than at first we would suppose, and more advantages. Passive and active mental exercises have been distinguished; the former leading to “a peaceful contemplative life of its own;” the latter being study and composition. The former may be followed when the latter could not. Much has been said in praise of retirement, and solitude even. It gives time for comparison and repeated observation, and these are admitted to be of the utmost importance;—“Truth is the offspring of silence, of unbroken meditations, and of thoughts often revised and corrected.”¹ And though we are treating of those with whom there is no choice, it may reconcile them to their lot, and lead them to cling as long as possible to their independence. This the more requires to be said, as at first it is found tiresome and little profit in it, and it is only afterwards a person, if he adheres to it, will find that he has been getting more benefit than he thought of; and there is always much in a person’s own power. He is not to give way to despair, nor on the other hand to expect too much; for there are dangers here too. There must be a purpose in view, and a laying out of time, for it is not idleness, though, indeed, little may be done.—“The art of living alone requires so much experience.”—There is an art then, and it is not purposeless altogether.—“Exiles, if they wish to ensure happiness in retirement, must, like other men, fix their minds upon some one object, and adopt the pursuit of it in such a way as to revive their buried hopes.”² The main thing is to lay aside pleasures and amusements. Some may have no taste for these, but others may have to deny themselves. As the same well-known and eloquent writer says:—“The love of solitude, when cultivated in the morn of life, elevates the mind to a noble independence; but to acquire the advantages

¹ Wollaston, ap. Melmoth’s Letts. 69.

² Zimmerman on Solitude, ch. 2.

that solitude is capable of affording, the mind must not be impelled to it by melancholy and discontent, but by a real distaste to the idle pleasures of the world.”¹ Necessity, of course, is a stronger reason still, and the distaste will be produced simply by being more intent on other things. Rest and tranquillity, indeed, in some shape or other, are what all are seeking after and looking forward to, but it is conjoined in nearly all with a desire for a complete security, ease, the comforts and luxuries of life, the blessings of society, together with feeling on an equality with everyone, the indulgence of their tastes, or of following any amusements or pursuits they like—in short, to have at least, at their command, whatever they see others to have. It is well-known that this desire goes on increasing, so that some will continue toiling till late in life, when they can have little time left for the pursuits of leisure. All these things, however, may be laid aside, and still the valuable kernel remains. True, there may be neither security and certainty for the future, nor any of the luxuries and pleasures of life, no society and amusements, but cramped means instead. These are serious deductions, no doubt, and they are what, in the main, makes the difference between those who are rich and those poorer. Yet, still, mental pleasures and profit remain—to listen to the teachings or deductions of others is easy and costs nothing.

In such circumstances, indeed, we may suppose there will be no study, such as students get for a few months in the year, that would not do for longer times and fewer advantages. “Grinding,” as it is called, is not what can be carried on perpetually. To revise and gradually carry on what has been formerly acquired is a different thing, and easy. There is a saying about “a mouthful of learning” only, that we may apply here—only, we would come to find that after a time an accumulation of littles, and meditation and comparison for long, came to some amount, and was valuable. It need not be said that this is again something too intellectual for many people, and that there ought to be amusements for those who have time. But it must be supposed that all who can read are inexcusable for not making use of their ability, even though they were sometimes to find it irksome, or to require application

¹ Zimmerman on Solitude, ch. 2.

—and it is not pleasure that is to be sought. Variety of reading is itself enough of change to prevent too much monotony, and it constitutes both relaxation and amusement. History, biography, travels, periodicals, poetry, and the news of the day, are the great common field ; and even the class of those who write or teach spend a large portion of their time in these, for it is a comparatively short time that any can work hard properly to advantage. The difference is in the lessons they can draw from what they read. Most stories we must class among amusements and pleasures. To most people they take up too much time, or occupy the attention too much. Amusements, at the best, are only for spare hours, and should never come in where business commonly comes in. In general they are partaken with others, as in the family. Relaxation, no doubt, is of importance, and besides changes of reading, manual exercise or labour has been recommended—such as with different kinds of tools. There are many useful and easy ways in which this could be done. “I am acquainted with gentlemen who understand the mechanism of their watches, who are able to work as painters, locksmiths, carpenters ; and who not only are possessed of the tools and implements of every trade, but know how to use them. Such men never feel the want of society.”¹ Some amusements are more rational than others, but they may become a toil in their turn, and something useful would suit better those who are not seeking pleasure, but who are more like business men.

It may be asked what objection to pleasure and amusement ? and in reply it may be answered that a person cannot do two things at once. They not only lead to expense and company, but in the circumstances we suppose are inconsistent. Where there is nothing but amusement a small fortune almost might soon be spent, and a mixture even either indisposes for other things, or else they cease to be pleasure. There is also a tendency in amusements always to turn into something else—sometimes almost a business again. There is enough of amusement in books. Truth is stranger than fiction and as interesting, while it is rational and profitable. If this is our amusement we cannot mix it with what is heterogeneous, we must keep to it. It may be called society ;

¹ Zim. Solit. chap. iv.

and if some books are bad most are good. They include every variety of subject, and every degree of talent may be used in perusing them—from what we cannot comprehend to the merest news of the day. This surely should be enough to divert the mind.

“ My cabin seemed a whole world wide,
Kings entered in without their pride,
And warriors laid their swords aside,

“ There came the Saxon, there the Celt,
And all had knelt where I had knelt,
For all had felt what I had felt.

“ I saw, from crime and creed apart,
Heaving beneath their robes of art,
One universal human heart.

• • •
“ They asked me not of rank or creed,
And yet supplied my spirit's need.

• • •
“ They showed how contradictions throng—
How, by our weakness, we are strong ;
And how we're righted by the wrong ;

“ Unveiled new regions to my sight,
Transformed the weary winter's night
Into a springtime of delight.”¹

We may farther consider that, among even professional and business men, there is often little or no social intercourse, except what arises from business. And thus it very well happens that there is none for the non-professional. Or if the rule of society is intercourse with equals alone, there will be none—and that is still more apt to be the case where social rules and forms of politeness are not adhered to; for these are a protection to the weaker party. Too much freedom and disregard of rules would not do. Indeed, too much freedom is only another way of keeping at a distance. Some care would require to be taken to adhere to the equal laws of intercourse on the part of those who were either richer or, from station, above others. Where questions are asked, and all particulars expected to be known, there is less intercourse among unequals or those in different circumstances. Manners, civility,

¹ “The Canadian Monthly.”

civilization, are thus involved. Too often it is more that a person does not like to trust that all such fair rules will be observed, than any other reason, that leads him to decline society. The want of this is too much in favour of riches.

Those, too, engaged in serious pursuits and investigations are often little inclined to the lighter amenities of social intercourse. But, what is more to the point, we are dealing with those exigencies that arise when there may be no option in the matter. And here it is of importance to consider that this is not a question of degree; for though it is true what we have said of the observance of rules enabling those who are different and unequal to have intercourse together, and of which, of course, there might be different degrees, still there is a difference in kind between those in society and those not. The question is, How are we to dispose of them? How are we to class and describe them? What is the nature of their position? There is generally too much a going to extremes, as if all out of society were lawless. It is obvious that that is no proper answer—not what we could truthfully tell to all and sundry. We should seek the right rule in everything. And whether we may be able to act up to it or have to make exceptions, at all events we should know it. The answer is that they are on business, that they are the same as business men—that this distinguishes them from those on pleasure and amusement. As business is always held a proper excuse in society, it is the same here. We never question a person about business; the moment it comes in amusements and society are dropped, the very countenance changes. The same as one would let alone a person engaged in some serious business, such as medicine say, so here though the same necessity does not appear; still it is the same general rule. For business in its very meaning—*nego otium*—is the very opposite of pleasure, or is the absence of ease and pleasure. It need not imply that there is anything very important. It is more something negative in the absence of carelessness, inattention, indifference. In our language it comes from the idea of inspection, superintendence, oversight, which need not imply much of strenuous exertion or activity; in this resembling the duty of a sentinel, who may have nothing else to do but to look around him, and only have to refrain from mixing himself up with others. Here again

we find the *liberum arbitrium* within certain limits, where we may come near to and may agree with others in many things if they are rightly taken; for in classes it is not absolute separation, but there is always a common ground on which we may meet. We should know this and not take advantage of the common ground unfairly, otherwise we drive men to extremes, which is only oppression, as if we were to take advantage of being admitted into any place to appropriate something besides what was meant to be allowed us.

Any person's calling in life is the pursuit to which he has devoted himself. Its most common meaning is the business by which a person lives. But everyone may be said to have a calling in that to which he ought to devote himself, if he does not mean to be idle and wholly given to amusement. It is the business that, as it were, lies to his hand. If a man's circumstances change, he may think himself called to some new way of employing himself. Everyone that systematically lays out his time in some way thus forms his calling, which is just to make a business of it. This should agree with his circumstances, position, etc. Thus we say sometimes, "You have no call to do that," or, "It falls to you to do that," showing the connection between the circumstances in which one is placed and the way in which he ought to employ himself. There is such a thing as an unlawful calling.

There is sometimes a difficulty in describing those of no certain, regular business. Residenter, portioner, etc., are some of the terms we meet with; and it has been said by three judges of one of our highest courts, that a person who has "no well-defined occupation" may be designated gentleman for want of a better. That designation may be viewed in a wide sense, as embracing all who have all the usual and common articles of dress, for we would not use it to one who wanted something that all had. Thus an official in an official dress we would call by his official name, because in this he differed from what was usual; and the same is true of the want of anything, though in a different way. This is irrespective of fashion or of value, and something additional should be added to the term when something more than is general and common is meant,—a distinction within a distinction,—as we say a fashionable gentleman, a rich gentleman, etc. Freedom loves

distinctness and certainty ; and hence these here, though a wide class, to which any may readily conform, are embraced.

There are certain phrases in which we might describe the pursuits of one who had no regular business, and yet was not a person merely amusing himself, such as,—Don't know what he is doing, or what he is. He is following business pursuits. Or, he is so busy that he never goes anywhere or sees anyone. His business is not thriving, and he never goes into society ; when he has made his fortune you will see enough of him. He is engaged in literary pursuits and has dropped everyone. He is leading a retired studious life, sees no one, and has quite dropped out of society. Truth should always be adhered to, and some of such phrases might suit, especially if we consider business in its negative aspects. And some of them have been thus used of well-known men. It is better than exaggerated or delusive descriptions, as if they implied anything unlawful or disallowed.

The very want of society, it may be said, makes it business. It will be said that there is no business ; and it is true that there is no *regular business*, but we have shown that there is always occurring little pieces of businesses which make all business men in the general sense of the word. If a person cannot discharge these simple and easy matters of business from bad health, that is matter of fact and of law. Fair treatment, of course, is always supposed. This is the distinction between social and civil. It is true *all* are in this sense business men, but the difference is that those we mean are nothing else, while in others it is a mere secondary thing they never think of and does not make the rule of their life ; while other business and professional men make a sharp distinction, though taking in both. If one of this latter class fail, he may have to confine himself entirely to business ; or, if he has no business in the regular sense of the word, he may become one of the class we are treating of—at the lowest point, depending on his civil rights alone. There is a difference, doubtless, between this and merely standing still and gradually dropping society, but they are also much the same ; and as we do not speak to a person on business so both should be let alone, like those travelling on business and not for pleasure.

This difference is not one of mere feeling and opinion, which we

have in our own power to alter just as we choose to think. It arises from facts and actual circumstances. We hear much of troops of friends forsaking the unfortunate; but most of this arises from the mere change of circumstances. To ignore these would be as disagreeable to the one party as to the other. Different circumstances call for different rules to be acted on. The simplicity of young people is apt to forget this, but it is not confined to them. In general we cannot state matters of feeling so as to instruct and guide, but matters of fact we can. All social matters are in the main founded on matters of fact, on what is natural and suitable for the circumstances. There are often, no doubt, deceptive appearances, but these are the exception to the rule, and generally not considered right. In such different circumstances one cannot truthfully need or wish for the same things as others. Acquaintanceship is naturally dropped unless it is kept up. There is still room, however, for friendship, but it must be considerate, and it is not always it can show itself. It would require now to drop the social rule and take to the civil. So that such a person, too, has an interest in civil rights. Of course, however, it is easy to neglect them and keep to social, and that is what is generally done; making a wider separation than need between classes. To press social pleasures, amusements, or anything else of a like kind, on those who do not wish them is disagreeable and not true friendship. There is a tendency to extend what is social too far, and this, of course, limits what belongs to civil things. It is this considerateness and by giving useful advice and information that true friendship is tested. If we make and observe distinctions in other things, we can as easily make them here.

Duties natural, civil, social now come in; and it is only what we might expect to find, that adherence to these are here more tried—where law and equity, on which proper manners even and other duties are ultimately founded, however little this is apt to be held in view in our usual intercourse, become more real, and principles put to the proof. It can now make no small difference whether the advantages of these are to be obtained or not. With them, one with little might get fair and honourable treatment; without them, either he would have to drop his pursuits or to

have recourse in his turn to those very violations of the laws of fairness and equity from which he suffered. The fair rule of right, whether of manners or anything else, should go to the very lowest point on the scales. How different from a supercilious turning away whenever anything is met with that is not quite agreeable to our feelings, or when our interests are not likely to be advanced. This is to turn from the course of truth and duty. Such evils may exist where, on the whole, law and order reign ; but they are just, in their sphere and in their nature, part of the system of oppression that is always sure to exist more or less where arbitrary and despotic power prevails. We need not think that this is applying law where there is no law, for law is found everywhere in some shape or other, and to violate it can only be putting the right into the other party's hands.

This difference of circumstances makes a difference too as regards other things ; for if there is no society, no visiting, etc., what need for the same display and outward appearances ? This makes a most serious difference in expenses, and yet it is only what is suitable to the circumstances, that is, it is what a person would naturally do though he were even a richer man. As has been said already, life may be supported on little apart from pleasures, and that comprehending all the things that others get. This is more the case now than ever, for everything needed may be had readily. It is the *total absence* of such things that makes the difference, and not the difference in *quality*, which may be great. Take house, dress, and such like things, and count the difference between the extreme values of everything, and they are very great, and yet those at the *least* value answer the purpose equally well—as between a gold spoon and one of an inferior metal ; and it is the same in the other things. It is the absolute want of them that puts into another class, and the step is a very distinct one—in fact becomes poverty, beggary, dependence. Fashion, no doubt, makes its subordinate distinctions, and besides there are some superfluous things that make a still farther difference ; but these differences are little compared to the great common field where all have the *same things*. As the proverb says, “Home is home” be it ever so plain, and in the same way food is food and dress is dress. Now, too, many articles of mere

ornament might be put into the same class. In all these we may at the two extremes go beyond, and there may be what is superfluous or what is want. Civilization lies in the middle, luxury and poverty in the extremes. To put in what makes a difference destroys the *liberum arbitrium*—that is, what is common, what we agree in—by putting forward what makes a difference; but we need not do that. There are many things in our power to do which we do not do,—such as destroying silence by making a noise in meetings,—and we should not here destroy what is general and what is right and the fair thing to all.

What need is there then, we might almost say, for riches at all? And it is a fair question, What is their proper use and influence? for we know that they may be used wrongly to corrupt and pervert things. If rights and laws are respected they are much more limited in their power than when not. But still with them it is obvious we can assist others, can give to public institutions, or for any public end, besides many other purposes to which none could object. But certainly they are not of much use properly in the reality of life. For “the king himself is served by the field;” and we are told that when they “increase,” those who use them also increase in number, so that personally not much in addition to what others have can be got out of them. When a valuable pearl was melted in a sauce, an attempt was made to get this, but it is clear the sauce would not be improved; and the exact same, though not so apparent and obvious, is the case in many uses they are put to. We are warned against riches, and told to be content with “food and raiment,” from which we must conclude that if we have these we have all we should desire, and may spend life profitably and agreeably. What occasion for a large house if one or two rooms at most is all we can use or need for ourselves—“What another man would call want, I would call comfort.”¹

It will be observed that in all these much depends on what is public or private—that is, on being entirely by ourselves or along with others. It is easy to see that this should and does make a difference. In public a person requires to be more particular; and it makes a difference to be in it only a few hours every day, or

¹ Lessing.

to be the whole day, or at least to be the same as if we were. It is this that separates those whom we more particularly have in view from others. When the two classes meet the one must conform to the other. It is generally thought that private must yield to public; but the true rule is that each should conform to that class it goes into. When a private man goes into public he does so, whether it be in matter of class or rules, or in making calls, which are public also in general. But as this is voluntary, he may avoid it if he chooses. On the other side, what is public should be laid aside in going into what is private. An official, for instance, who has a robe of office should lay it aside when visiting a private person, should not be standing on his dignity and public character. The same applies in spirit to everything. And it is just because this is not acted on, or cannot be trusted to, that a person who is not public requires to be more alone than he might be. On the other side, it has been said, that "public men must be waited for till they cease to be public, and are once more themselves,"—that "when a man becomes a judge, goes into Parliament, or is deeply immersed in the duties of an arduous function, official acquaintances are made for him,"¹ and he is apt to lose old acquaintances. The truth of this extends further. Society and sometimes the entire social life is public—like officials who sometimes have a public residence. It is all this that is laid aside by one not in society. The secrecy, too, aught to be real secrecy, for anything told or reported has even more effect than if seen only.

And yet in this, too, we must not make extreme differences, or an entire separation, for private things are public too. It is unjust and unfair to think that there is nothing public in them. It will be asked, How are we to know, then? The answer is, We cannot know, and must act on the right rule to guide us. We cannot, as it were, affix the name of either public or private to everything and treat them accordingly. That is taking things too easily. They are more or less mixed together; so that, though the distinction is proper, we must not take it too simply. It would be better often to disuse either of the words and put in their place what we meant by them. This, at the expense of a few words,

¹ Paper on "Friendship."

would make things clear, and often prevent mistakes. It may be added, that the same might be done in other things and with other words or terms.

It is along with others, and in public and for the public that riches are of use. There are many instances where they have appeared almost as if only held for the public; while the owner, by keeping them as much as possible to himself alone, often gets no additional advantage. This is the reverse of selfishness. There is no dispute, of course, about rights. The influence that they give is more likely to be great in the first case, though quite voluntary; and this is what should be considered enough. The vain endeavour to extend further their influence, use, or power, is the cause of great evils. They lose their fair influence, and when force cannot be used corruption may take its place. Though the influence and use of riches are great, we have seen that there is a very distinct line which they must not cross, beyond which all are equal, and they can yield nothing more to their possessors than what others get. It is to observe this line—to acknowledge it—to be content with what can be fairly got within it—it is to get this that is the difficulty and what is needed; it is to admit that those far poorer are on a level with those who are rich, which we do not naturally do. It is only, however, analogous to literal property in barbarous times, which was grudged to and never safe in the hands of a poor man. When this is acknowledged ill-feeling is away, and it will be found that that voluntary influence, which springs from merely having the choice, being first, and many other advantages, is not little. At all events, as riches cannot prolong life nor give any advantage in analogous things, so in matters of right they can and should give no advantage either. Yet, as has been said, property is apt to override rights; but that is a corruption, and not its fair use. All are equal in this respect, as has been often said by many.

“ If well thou viewest us with no squinted eye,
No partial judgment, thou wilt quickly rate
Thy wealth no richer than my poverty;
My want no poorer than thy rich estate;
Our ends and births alike; in this, as I,
Poor thou wert born, and poor again shalt die.

" My little fills my little-wishing mind ;
 Thou having more than much, yet seekest more ;
 Who seeks, still wishes what he seeks to find ;
 Who wishes wants ; and whoso wants is poor :
 Then this must follow of necessity—
 Poor are thy riches, rich my poverty.

" Though still thou gettest, yet is thy want not spent,
 But as thy wealth, so grows thy wealthy itch :
 But with my little I have much content.
 Content hath all, and who hath all is rich :
 Then this in reason thou must needs confess—
 If I have little, yet that thou hast less."¹

When rights are observed, then even an obscure life may be—

" Set down a type of bliss,
 A mind content both crown and kingdom is."²

Economy has its pleasures. We prize more what we have taken some pains to get at its fair value ; it implies intelligence and acuteness ; and there is pleasure and profit in all mental exercise, different from the carelessness of profusion. A little, too, given here counts for liberality. This is the part, the fundamental part, of the great middle class that has always been praised ; while the inequalities of the two extremes have been as often denounced. "The inequalities of mankind in the present state of the world is too great for the purposes of producing the greatest quantity of human nourishment, and the greatest quantity of human happiness ; there should be no slavery at the one end of the chain of society, and no despotism at the other."³ But farther, however, it will be said that a person should be able to count on this as permanent. But it may be asked in turn, Where is content to begin ? If a person sees a year before him, is that not enough ? Can he not go on in the meantime ? Time brings changes that may benefit him. "Daily bread" implies that at least we do not look very far forward. In the far more serious matters of health and life we have no security. There is no end to what we might desire if we once begin. First we may wish to be secure for years ; then for life ; next to leave something behind us that may

¹ Ph. Fletcher.

² Rob. Greene.

³ Darwin Zoonomia, 2, 416.

be useful to others. And, of course, much can be said in favour of all this if it does come, but it is apart from the necessary things we are considering ; and especially we should not make it the standard to judge others by. It is allied to ambition and covetousness, and is the very opposite of contentment. It is the error of seeking over-security, but if we cannot secure the greater, why be over anxious about the less ? Practically, when we have to consider it from the other side, it is what we act on, for we would never think of charity towards any unless they wanted daily bread, if they had that we would consider them well enough off. It is to be remembered always that we are speaking of what *should do and must do*,—the lowest ; and we cannot but come to that always, for all cannot be rich.

A small capital, though nothing as capital, goes a long way when used in small parts as income. Small additions and credits may help it to go still farther. But, at all events, let a person keep his independence as long as possible. Even in looking forward and considering what *might be*, we cannot fix beforehand. Farther, in short, we cannot go, or tell the changes that may arise. As we have already said, the more independent chances of getting situations, etc., the better. But at present there are few of such ; there being generally some long routine road that must be gone through when young, and even what is irregular going much the same way. The only thing farther that can be said is, that small payments, that everyone can afford, give in the way of insurance still more independence ; and this probably could be still farther done. Even taxes paid may be considered to give a claim. But this is farther than we consider, which is, How best to retain independence in connection with civil rights ? It is evident how much must depend on them ; for otherwise we have seen on how little a person may be independent, provided they get all their rights. To be judged by our equals is the great rule of freedom and equality, but dependence is not equal to independence. If one agrees for a time to serve another, he cannot, in that matter at least, pretend to equality. Besides the other considerations, it may be sometimes a question which is most profitable.

Some have denounced independence as vain, and, of course, in a sense all must be more or less dependent on others ; but none can

deny that there are distinct degrees of it, and the want of it has often been little else than slavery. Literal slavery may be abolished, but how many things give rise to something like it. We cannot by a simple process get rid of these the same as we do of literal slavery by simply abolishing it. There is a tangled web, as it were, which we must unravel by distinguishing and giving to each his own. There are all degrees, from those deprived of liberty to those most independent by wealth or circumstances.

“ Ah, poverty ! thy deepest night
Would still retain some orbs of light,
But for the cloud dependence brings
Between us and sublimer things—
Dependence, man’s most bitter foe,
That adds fresh gall to human woe,
And bows beneath its iron stroke
The spirits sorrow never broke.

“ Methinks for sordid slights are kept
The saddest tears that can be wept :
For other sorrows have their balm—
To the fierce storm succeeds the calm.
But insult is a poisoned dart
That spreads corruption in the heart :
It brutalizes the refined,
And violates the virgin mind.”¹

It is hard to say that anything should degrade a person against his own will. But few are all that they should be. Necessity is said to have no law, but how strong are temptations and inducements before we come near to that. To be independent, then, at least keeps us out of the way of temptation, and is therefore to be preferred. To retain it, however, often requires self-denial, endurance, contentment with little, and to avoid comparison with great things. If we put ourselves in a position where we are in the wrong, how can we claim it? It is necessary in social, civil, and political affairs, as well as in moral and religious. Conscience should be the great rule to go by, and it has well been called the sole monarchy in man, as making them most free, and even in some things above human laws. It should be equally free from those unwritten laws which permeate civil and social life.

¹ D. Scotsman.

" How happy is he born and taught,
Who serveth not another's will ;
Whose armour is his honest thought,
And simple truth his utmost skill.

Lord of himself, though not of lands :
And having nothing, yet hath all.¹

Amid irregularities and confusion it may be asked, What is the use of such accurate consideration? But the accurate rule, again to repeat, should always be at least known. It often comes out in after examination, as in courts of justice: and, at all events, it is what we can at all times appeal to, and it has a great influence always in regulating everything, even when least followed.

¹ Sir Henry Wotton.

" Meantime true judging moderate desire,
Economy and taste combined, direct
His clear affairs, and from debauching fiends
Secure his little kingdom."—*Thomson, Lib. 5, 144.*

CHAPTER IV.

RIGHTS BEYOND THE LAW.

The minimum—affects all. Beyond law. What it depends upon. Others besides the weak may be taken advantage of. Is both legal and moral. Law extends to everything. Knowledge and general opinion. Speaking the truth a remedy. Though apparently trifling, secures most important rights. Friendship not enough. Civilization involved.

"There is something beyond the letter of the law."
—*Prior.*

In self-management, and in what form the rights common to all classes, it is the minimum we have to provide for,—and, as is the case in many other things, we must begin by securing what is lowest—ascertaining the greatest lengths that we can go.

On this account too much should not be made of mere civil rights, so as to lead to their denial in some cases. They should not involve too many intricate duties, nor yet things of too great consequence.

Personal liberty and independence is a distinct thing, separated by a great interval from anything which vitiates it; that is, there is a distinct line or step to be taken from the one to the other. The existence of this freedom and independence is simply and easily known: every one is conscious both when it is violated and of the feelings that generally accompany that. It resembles in this our property: however little that may be, we resent equally anything stolen from us.

What then are the guards, etc., of this? If legal or civil rules give more than we are inclined to allow, there is a greater temptation to disallow and make free with rights, spite of law. This is especially the case in regard to the poorer and weaker part of the community. It is like one appointed to duties he was incapable of discharging, who would be pushed aside by others. But there is nothing of this kind in the lowest measure of civil rights—no duties too difficult to discharge, nor rights too great to be allowed. When we reflect it is mere liberty, and that does not

involve these. In a civilized and peaceful community everyone, as far at least as is personal to him, can quite well best take care of his own property and his own safety—that is, what he carries with him or upon him, and the avoiding the ordinary risks of going about. Of course this involves and counts upon the usual fair play that should be in every civilized country—something more than mere protection from robbery or violence. He must get what he is entitled to, be told what he should be told, easily and readily. These, as said, do not, and should not, at the minimum involve anything that is too much or extraordinary. It does not arise from the nature of things if they do : if laws passed made them they might be unmade in the same way. Otherwise, from one who was neither very rich nor clever, there would be a constant tendency to withhold them ; and along with them, probably, would be involved other more ordinary matters. Oppression begins when these ordinary and fair rights are trespassed upon.

The case of the equal division of intestate succession property illustrates this. There we must often have the very minimum to deal with as to rights as well as property—that is, those who could do little more than take care of their own personal effects and their own safety in the usual way ; they could not pretend to the cleverness and knowledge needed in managing the intricacies and difficulties of the property of others, or of scheming in business matters. Of course under personal effects might fall large sums of money in the shape of paper or coin ; but beyond these we get involved in business and professional rules, etc., where the laws also of a country come into play : and these might allow more or less self-management.

But what we consider at present is the former of these. As already said, it is a very distinct thing, and need not, and should not be interfered with by the more difficult and intricate business or professional business rules, etc.

In many matters it is of the utmost importance to fix things one way or another ; not because there is any great or broad line between the one thing and that next it, but because it makes confusion and injustice in not having it fixed. A wrong decision, of course, is unfair, but is not so unfair as leaving it unfixed altogether, for then it is neither one nor other, and, as it were, becomes

a nonentity. A great deal is involved in fixing ; it draws a line, it makes a boundary which can be seen, to cross which there can be no excuse of ignorance. The line is well marked ; it cuts off distinctly all on one side from what is on the other. The exact same treatment, etc.—so far at least as this distinction is involved—is due to that next the very line of distinction as to that at the greatest distance from it. However gradual the shading off may be, the line fixes and makes a step as great as if there was, as in the case of colours, a sudden transition from quite white to black. It is the line, however, or the decision, that makes this difference ; for otherwise, there may be a very gradual shading off from what is more white into what is less white ; so that we may be in doubt where what we should call black begins. Yet, if after the decision, all on one side should be termed white, and all on the other black, it is no doubtful matter. If the ownership of property were to be determined by the colours white and black, examination would show, by means of the line, distinctly what was to be classed among the white and what among the black ; but at a general view it might be difficult to say which belonged to the one and which to the other. But however near to the black, what belonged to the white would, equally with the most white, be put along with it ; and though, at the same time, there might be a very great difference in their value and in other things, they would all equally belong to one owner. As the smallness of value would be no reason for giving *property* to the wrong owner, so we should act equally fairly in the case of the minimum, or very lowest matter pertaining to civil rights ;—no distinction should be made between small and great, as little as in matters of property : justice here should be blind :—always meaning by civil nothing but what is fair and right. There is thus no half-and-half state—as we naturally, as in the case of shades of blackness and whiteness, are inclined to think—but certainty throughout—one or other. Time also is of importance. Decision is necessary within a very short time ; and, in proportion as the balance is very equal or doubtful, that the decision be right becomes of less consequence ; just as in weighing an article, to make a mistake in giving a grain more or less can be of little consequence when we can scarcely say on which side the needle points ; it can only be a grain or two. The

importance, we again say, lies in making the decision, one way or other, and then consistently adhering to that law, rule, and conduct which should flow from whichever it is. No doubt it may be said the decision should be correct, and to obtain this time and trouble require to be taken ; but we cannot, do as we may, escape the risk of errors to which everything is liable ; and we have to avoid committing *a much greater injustice* under pretence of trying to be very exact. When the matter is most doubtful an error is of least consequence ; and, therefore, less time ought to be given to it. Striving to be more exact than is needed here becomes the height of injustice.

There is an analogy between this and health. There may be degrees of health ; but still so long as a person can go about, and discharge the duties of any situation, no unfair advantage should be taken : for, in such circumstances, he requires *more* instead of less of the usual protection, care, particularity, in order to secure every right, etc. There is a natural temptation to take advantage, however ; and when that is the case, what might and should answer well enough, will not do so. Because there are doubts, is the very reason that more than the usual care should be given to keep things exact, in order to give things a fair chance.

The right understanding of the proper principle here is of the utmost importance. It should direct our conduct, at all times and in all circumstances, in small as well as great matters. For it is obvious from what has been said, that it bears upon every day and common things—upon our going about—upon truth and falsehood in our intercourse, etc. We cannot and ought not, therefore, to say that the *law* will keep everything right. The law itself has a saying *de minimis non curat lex*, “the law takes no care of the least matters.” Something more, then, is needed. It is very little justice to get if it is only what falls within the scope of the law that is got. There must be a proveable case for law, and this and its expense must always confine it to only a limited number of cases. And yet these other matters beyond it are evidently as much law as they.

The question is not confined merely to those who, from bad health or some other cause, approach more or less nearly to the state of those under age ; it affects those who may be farthest

from any such state—indeed, it AFFECTS ALL. When wrong principles are entertained, the importance of what would form a check on wrong will not be seen nor acted on ; and, in that case, there must be in all more constraint, more attention to mere outward appearances, more avoidance of doing anything out of the usual routine, and when anything unusual happens there will be the constant fear in everyone that mistakes may be made, and that they may be confounded with others. No doubt in those cases of direct and literal wrong and injustice, said to have been perpetrated last century against personal liberty, *some pretext* of one kind or another would always be seized. But such pretexts will always exist more or less ; and though they do not go the same lengths, how much may be involved, or, at least, how much of the negative deprivation of what we are entitled to may there be. The annoyance merely of constantly correcting mistakes is very great ; and, besides, there will be still farther a withholding of what is positively due, *i.e.*, in all those little matters not settled by positive law and left voluntary—such as information usually given, or pieces of attention, etc., usually paid. These may involve most important matters ; just as ignorance may as effectually prevent a person doing what he otherwise would, even in most important affairs and rights, as being directly and positively prevented. In all these ways the liberty we are entitled to is indirectly seriously abridged, or else these evils must be suffered. It only makes it worse that many may not see the harm of this. To keep people strict to the dull ordinary routine of things may seem no wrong or to be even an advantage, but it is incompatible with what is best, and puts a stop to all endeavour after improvement. All character lost : suspicions more apt to arise ; only what is ordinary and commonplace passes current.—“Mere leaden soldiers are mankind, moved all one way for good or bad.”

Inactivity and supineness favour the usual routine, because in it we can act for certain and without trouble: but we ought, as in other matters, to use our understanding as far as we can, and decide at once and act on it ; for it is just here decision is called for, and the injustice of indecision, already noticed, lies. It is much the same—or, rather an instance of what is meant occurs—when persons are seen in any place where we are not sure that

they have any right to be, though others have. If we decide at once, and invariably against them, we may be doing an injury by excluding those who really have a right; and, in so doing, may terrify others who have a right lest they should be treated in the same way, and so we may keep them indirectly from using their right. Better, it will be said, to let all alone; and so it is. If too much risk is run, we must have recourse to other means, if we do not wish to injure all. But, as already hinted, in the case of civil rights, too much is not involved. No matter though one or two may have obtained access without right: it is a trifle compared with the annoyance there would be to *all* in attacking their rights. In the case of civil matters, to decide neither one way or another is most injurious, even though we could say we had committed no positive wrong. This is merely keeping the letter of the law. Thus, we might not turn out parties whom we suspected from any certain place, but we might annoy them by showing suspicions, or in other ways that were in our power—this might be even more injurious. The same is the case here—there should be no half-and-half state—it is not to be supposed that by mere mistake any great injury can be done: by indecision, however, there is either a double injury or a double benefit obtained, both unfair alike. Justice and fairness to others sometimes requires parties themselves to make a choice, so as not to engross the whole from others; and at other times others have to fix for them, so that they may not be deprived of all benefit. In this way everything is fixed and certain—nothing doubtful, and neither one thing nor another. The existence of a very few doubtful things among a number throws doubt upon the whole.

What, then, are the guards of this fundamental right of freedom. As already hinted, the law does not extend so far—that is to say, the literal and positive law. It decides everything right in such cases as come before it; but those beyond it must be kept right otherwise. A proper understanding and right disposition, in the main, are the means by the spread of which we must guard such rights. There are, no doubt, many literal guards and checks, but they do not fall within the law. The omission or violation of some of these, however, might be made to fall within law, so that there might at least be damages and reparation obtained, and

that would tend to secure them. But reparation is not prevention ; and, in the main, as already said, it is general opinion that must be trusted to as the principal check. When properly understood, the interest, both of individuals and the community, is involved in such right opinions being acted upon ; and the power of general opinion is what all allow.

Such rights depend upon information, intimations, notices. These should be secured equally to all, and not omitted in the case of the lowest, poorest, or weakest, but rather special care taken in such instances, just because they are most apt to be omitted. *To be told* makes the difference between right and wrong, justice or injustice ; and that perhaps to all concerned. Comparatively seldom may there be anything outwardly to be seen by which a person would at once form his opinion ; the mere chance of this, or of chance information, should not prevent distinct intimations. If property, being a tangible and literal thing, and falling within literal and positive law, is taken care of in such instances, and everything fair and right done about it, just because it is known that legal consequences would be equally serious against those who made free with the property of a poor and weak man as of a rich and powerful man,—if such rights of property are respected, other rights equally should be respected, though, from their nature, the law cannot take hold of them as it does property. They may be more important, and far more valued than property ; they may indirectly involve property, or at least what is the same as property, like the credit or reputation of merchants and professional men. Sometimes, indeed, there are legal remedies or damages in cases of that kind ; but these are few compared to the many others that the law either cannot lay hold of, or does not—where nothing tangible or definite enough can be shown. There might be more such remedies, but beyond these there would still be the fairness and justness that can only be secured by general opinion, based upon a right understanding both of individual and the general interest. These, as already said, really do not involve anything unfair to any. If we should be inclined to think so—unless, upon examination, we could really prove that there was anything unfair, we ought to remember that such rights are just as much what belong to the party as his property, which we never

think of questioning ; and in short, to guard against our natural feelings, or, at all events, not mistake the real truth and justice of the case—for, as there can be no doubt there is a natural disposition to envy those to whom more property falls than to others, the same feeling will be equally ready to rise regarding the rights alluded to ; but there is no real reason in justice why they should be made free with more than property.

If they depend upon giving information, notices, etc., it is obvious that these are definite enough. Giving information, for instance, in some instances falls within the law—that is to say, one party must first give notice or information, or he would lose his case or not obtain what he was claiming. But the word "notice" has a wide field of meaning, and there are degrees of definiteness. At the other extreme from giving legal information there may be what arises from little else than good feeling or friendliness between parties, or the doing so may involve morals and truthfulness, such as not informing a person of something which morally we ought to inform him of; such cases are not falsehood, perhaps, but they may approach very near it: they may amount to acting a lie. As there is nothing properly unfair in any such rights, so we might suppose that if they depend upon such things as giving information, notices, etc., that there need be no difficulty about them. What is easier than merely giving information? which a few words might do. And yet, perhaps, what gives rise to, or is one cause of such rights being neglected, or made free with, arises from the formalities that are often made to attend such things. Though a few words cost little, formalities to a poor man are disagreeable and out of place, and in some cases he might be inclined to give up his rights; but then notices imply something unknown to him beforehand, so that he could not be sure what he lost, and his not being aware how much importance may be involved in such apparent small matters might still farther lead him to neglect them. The other party may be equally naturally inclined to avoid out-of-place formalities, and yet it would lie with him to give the notice, as the first party would not know of them. But are formalities necessary at all? a few words only are needed. Thus we do not require to show hospitality to a person in order to tell him something, though

doubtless much information is given and exchanged connected with hospitality. There is a formality even in calls that makes a difficulty. But is even that necessary? It is certainly always best when parties are seen, and is easiest and often least formal; but as that also might put difficulties in the way, it is not absolutely necessary; messages may be sent by others, or by writing; only, we would require, if we really meant to act fairly, to make ourselves sure, and not trust to mere chances. Neither writing nor messages need cost almost anything. Nothing to prevent what is required according to the nature of the case—for, as already said, the word information involves a wide field—being done, and such trifles will not be done if parties stand on ceremony; if they will not give themselves the slight trouble thus involved—if what, as almost a matter of course, would be told if we happened to meet a person in the way of hospitality or in some other way, we do not tell him simply because we never happen to see him in such a way or to meet him by any chance. And such a careless way of viewing the matter leads to this, that much more do those neglect such rights who through envy, or from different interests, feel positively disinclined to observe them.

Both law and general opinion might lead to more fairness in such cases, and make reasons and motives for observing more exactness and taking the necessary care and trouble than otherwise would be. Such things are apt to assume a legal aspect, but these are moral, social, and natural considerations. In as far as they are moral and social there is no difficulty nor impossibility for their being done, as we shall point out; it is speech that regulates and is the means, and that we have it always in our power to use.

Though all should get their rights, even the lowest, poorest, and weakest, and though in this case, as in many others, it is necessary to begin at the lowest to secure all, many reasons or circumstances, already alluded to, may include, among those whom we call by these terms, others who really are not what otherwise we could call either poor or weak;—as a strong man might be in bad health for a time, and at such a time require to be treated the same as a weak man, if he was not unfairly to be taken advantage of, so many circumstances place those who are rich or strong in

this same position ; and they may equally be taken advantage of, or feel the same consequences as those who are poor or weak. Thus those who are absent—those living in retired or in remote places—those not in business, etc., may be taken advantage of. Those in business, especially, will be in the way of hearing and getting information which others are not, and the same is true of those in society. Such may find nothing to complain of. But in matters of EQUAL RIGHTS TO ALL, if these are the only ways in which information is got, this is simply unfair to others. *Most*, no doubt, may be either in business or society, but if it is the case of ALL we are to consider, we must provide for a good number who are neither in business nor society. No law forces them to be so, and yet they are as much entitled to all their rights as others. To go farther, it is to be remembered that even if such circumstances arose from the parties' own fault—as is sometimes the case—neither is that any reason for these not getting their rights the same as others: it is only one of those reasons, the same as poverty or weakness, on account of which they may be neglected or taken advantage of. It has been noticed and pointed out that this usurpation is apt to take place in case of the old—“The younger generations have taken the management of her affairs, as well as their own, into their hands, quite heedless at heart of what may be her opinion of the usurpation.” But there are reasons yet which might put others still in circumstances the same as those lowest and weakest: parties much taken up with some favourite pursuit might be taken advantage of, or those who, for some reason or other, did not wish to be any way troubled. Every calling, as well as profession, is entitled to law and to all its rights. All men, and women too, have business more or less, and however little or seldom, it should be respected as much, and is of as much importance, or perhaps more, to them than regular business. Thus, for many reasons, ALL are interested in such rights being impartially and equally carried out, and not left to the chance circumstances in which parties may happen to be. This is not to be done by fixing *any one class* or set and seeing that they get justice, but by fixing on the lowest, and weakest, and poorest, and seeing that *they* get their rights, being sure that that will include all—all that are in circumstances in

which they might be neglected or taken advantage of, whether such terms exactly apply to them or not.

It will be said:—of course they should get their legal rights, but if not in society they cannot expect the benefit of it. But anything that is a matter of law, right, or of morals, all are entitled to, independent of society, etc. The term *legal* rights in general means what we obtain from literal positive law, connected more or less with legal forms and business; and we are supposing that all right: but none, on consideration, will say that that is all a person's rights. How many things do not come within the sphere of law in that sense at all. Law, indeed, might be extended to include more than it does in this very way, but the mere getting a law passed does not alter the circumstances naturally or morally. Thus notices are sometimes legal and intimated in advertisements; other things, which may be more important, are not intimated in any way. We have shown there is no good reason why they should not—that they need cost only a few words, that there is no excuse, therefore, for omitting them. In some cases advertisements are proper, these are what we mean by *legal*; but they cost money, they are connected with business; we may say they are seen only by those who look for them; it would be mockery to think we could make such notices include all cases; besides, there being so many things not suited for such public intimation. If we would do fair, then, we must not confine ourselves to what we may distinguish by calling *legal rights*. If such were extended, good and well perhaps, except that they are apt to be accompanied with formalities and expenses which, of course, are more suitable and fair for the rich than the poor; but what is actually needed may be without expense or forms. The subject, however, is wide, and shades off by degrees. There is a distinct step, certainly, at the word *legal*—where something is fixed and tied down by written law; but there may be law, justice, and morality, as well as good feeling in the commonest intimation casually made in a natural way—but if we think it is the latter of these alone it is obvious we will consider it more a mere voluntary matter on our part to make it or not, whereas if we consider it matter of fairness and justice as well, we could not feel free to omit it; and if casual circumstances did not give the opportu-

ity, as already shown, nothing need hinder it being given otherwise.

Thus law is equally involved in what we may think trifles. Law, in the widest sense of the term, extends to everything ; but it is divided into different departments. We speak of moral law, social law, natural law, or of commercial law, sumptuary laws, martial law, law of nations, etc. ; but this is only a convenience, and is merely law in its proper and general sense, applied, or in reference, to a particular department, or set of subjects, which are naturally allied together. It gives rise to mistakes, if we confine ourselves too literally to such names. Thus, it may be said, there is *no* law for such and such a thing ; but this cannot be true if there is law for everything : it generally only means that there is no express written or enacted law in the particular department to which such thing may belong ; for natural law will include what we cannot otherwise class, or moral law may. This is obviously of importance : and the right theory should be so impressed on our minds as to prevent us ever feeling ourselves at liberty to act lawlessly, because there may be no law in some one department. This obviously all are naturally inclined to do ; but it is a great mistake to think that there is nothing to guide us because there is no rule where we would expect one in respect to that particular one matter ; it is a still greater mistake to think that we have any *right* to act just as we choose, without any law at all ; that we are not injuring others by so doing ; that it is part of *our* rights, not *theirs*. The omission of a written law, no doubt, may make a great difference ; it may even be in our favour, but still it only falls under another law ; and this other determines it and not our mere likings or interests. In short, this is just to say that men are never entitled to act lawlessly. The application of this is obvious to what has been said above—as, that there being no enacted law laid down, that we must first give notice in some precise way, does not leave us free to do just as we please. It may be different in different cases. If we call this legal to distinguish it, and if there is no law as to it, then it will fall under some other law. That is, moral, religious, social, or natural law may oblige us to act in a certain way. We hear of the letter and spirit of laws, and these, in a right state of things, should go together. It is generally only

the letter that can be carried out by means of courts of justice, etc., but if it is a just law, no man but will admit that we are bound to carry out the whole, whether there be legal consequences of our not doing so or not. Most laws are fair and just : where this is not the case, and we think the law unjust, it is not so clear that we are bound to obey more than the letter : but that is seldom the case, though we may think sometimes that the law might be better ; for that is very different from a positively unjust law : such, for instance, to take an extreme case, one interfering with our conscientious religious convictions. These different divisions of law take in law in the widest and entire sense of that word. Natural law will include what is not otherwise classed. This great law comes in, as it were, to make up for any wants or vacant places in any of the other laws. Anything we are in doubt of falls under natural law, at least ; and so it is never without a law, and confusion is prevented. This is of great importance, for it prevents any pretending that there is no law ; and it also prevents the law's delays, so often complained of, becoming too long ; for it is obvious that these, if carried too far and to an extreme, would just amount to the same thing as no law at all, when they would fall under natural law, just as the former instance fell under religious law. There are very often some things that *must be* done within a certain time. If any law in reference to them exceeded this time, they would fall under natural law. This would be the true and just law for them : any enacted law of the kind referred to would be both unreasonable and unjust. In general, however, and to a very great extent, enacted laws are just the same as natural ; they tell us to do just what our own understanding would tell us. In doubtful circumstances, etc., however, they fix one certain way, which we are bound to follow, and which natural law in no way interferes with. Where, then, there is no express law to guide us, we should not have recourse to trick, cunning, or violence, or think ourselves free to do so ; we should follow out the spirit of the law by doing, it may be in an irregular manner, what the circumstances require. There may be several ways of doing this, but what is necessary should be done, whether irregularly, unceremoniously, informally, awkwardly, or not. There is great difference between this and

what is lawless and unfair, and disregards all consideration of the general good ; and this is apt to be the case where there is mere trick and cunning accompanied with deceit. Actual impossibility, of course, is an excuse ; but our own understandings, on calm consideration, may tell us whether expenses, or any other difficulties, are such as to form an impossibility—expenses, such as having to travel a long distance, or difficulties, such as being quite unable to find out where a person was.

All this is included in law as much as what is formally laid down, or the omission of which can be punished. If, then, we mean to do fair and act lawfully, we must not omit this. It is as much a person's right as his property : if he would not steal *that*, or keep it back, why do so with the other, whether more valuable or less valuable than property ? It is often, no doubt, different from what we call legal. It may be more like good feeling, friendliness, good moral or religious conduct, or it may arise under natural law from a consideration for the general law, and the keeping things right. These do not prevent it being the spirit of what we call legal, or at least some of these other rules of conduct should lead us to do it. There is, no doubt, a distinct line between what is regular and irregular—between what is done with forms and without forms. Thus, the formality of writing is not necessary ; but where there are forms and ceremonies, imaginary difficulties are apt to be made. A few words may readily settle what otherwise would require long negotiations. But what is unofficial and informal is a recognised thing ; and where we cannot have the one we may have the other. Some cases show that this *can* be done. Thus, if some one wants a post or office, he puts himself to the trouble of asking the votes of all those who have it at their disposal, and he contrives to lay before them the information necessary, though, at other times, he may not be in the way of knowing or seeing them. In the same way, in canvassing for votes, even the poorest and most insignificant are found out, and their votes civilly requested. Or, if an obscure witness is wanted, he can easily be found out and asked to bear testimony. What is done in such cases may be done here too in cases, perhaps, we may think trifling or of no consequence, or where, at least, there is no motive from self-interest leading us to act. This would be raising

up those who are lowest and most insignificant to their proper civil rights, and checking that unseen oppression that may exist without direct persecution. If a little respect is paid to all when their votes are wanted, and this in a fair and lawful way connected with political freedom, it is the same air of freedom and justice here too ; and it is only right that freedom should extend to everything, exist at all times, and not be confined to political matters at certain conjunctures.

That anything is irregular is no good reason why it should not get all its lawful rights. There may be more trouble, but that trouble should be taken. It may be thought that this implies payments and expenses. That, of course, would depend upon the exact nature of the case ; but there are very many things that all parties ought to do without payment. Beyond strict positive law especially, considerations of the common good, or natural, moral, charitable, or religious considerations should lead those things to be done for which there is no express law, and, consequently, no prospect of payment. Even though, in general, there is thanks given, and even payment, this last should not be looked on as the rule. If no one will do certain things because there is no chance of payment, it obviously leaves those who are poorer to be neglected, while those who are rich will be readily attended to on the very chance of payment, or for other reasons. Because a person makes his livelihood as a business by such means in general is no reason why, in anything beyond the line of his business, he should do nothing. Such matters, as already pointed out, merely pass over to *another law*, and therefore are not to be entirely neglected as without the pale of law altogether. All parties thus, though poor or irregular, would get their lawful rights, as coming under that general law, which all should equally get, irrespective of payment, etc. It is what, as members of a community, we should do ; and what others should view in that light, so as to bring general opinion to bear.

The subject, no doubt, appears vague, as if nothing very defined could be said. This naturally arises from its being on the outskirts of written or well-defined law, and pertaining to what is often irregular, obscure, or occurs seldom, and where no express rule is laid down. The single instances occur seldom, yet it is very

general, and, in one shape or another, occurs often. It is a proverb that "what is everybody's business is nobody's," and this, no doubt, applies to some things; but there are others where all do really attend to the common interest. Every one, in case of a fire or of any accident, would render their assistance. In companies of individuals for any common end, and, still more, on shipboard and in travelling, etc., each person attends to the general interest. It is this that is to be spread wider and wider. It depends on knowledge, intelligence, morals, and principles, which all go to form that general opinion which almost instinctively leads everyone to act right on unforeseen occasions, and which prevents any violation of its rules simply by discountenancing those who do so. There is little chance of this being extended, however, so long as such things are considered trifles—as irrespective of law—as containing nothing moral—that we have obeyed the law when we have done what it outwardly requires. Conscience, then, based on a knowledge of the importance and of the evils of the neglect of this, should lead to law being carried into things which literal law cannot reach. Those are not likely to act right who do not even know what is right. No excuse would be made that they pertained not to this or that department of law: if they did not belong to one they belonged to another. If written and express law did not compel us to do what ought to be done, moral law and our own consciences, backed by general opinion, would.

Express written law, as already said, might probably go farther than it does, especially indirectly and afterwards, for it cannot well be directly extended into things unforeseen, obscure, or irregular. But consequences might attach afterwards to either wrong-doing—such as taking advantage of, or to the neglect of anyone in not doing what fairly fell to him to do. No doubt prevention is better than cure or after-punishment, but these have a powerful effect in addition to that general opinion—which, after all, is the right thing—in leading to what is right being done, though, perhaps, they pertain more to the private redress of, or making up for injuries, than the real moral good of a community.

Though express written law might go further, this subject, on the whole, pertains to what is beyond such laws, especially to what forms its junction line. Here it is sometimes said, "You are

to partake of meals generally along with others, to walk out and perhaps to purchase some common article, or pay for admission to some place ; these and the receiving and answering ordinary letters, are the only duties that *necessarily* may fall to everyone, and inability to discharge which sets the party aside entirely into a wholly different class, and whom we would not expect to meet in ordinary life, seeing he could not discharge its simplest duties. Children we could not trust with money, or to go by themselves ; but all others are expected to perform such acts, and all see at once the age of a young person without requiring to be told. No doubt most have more serious duties than these to go through. At college everyone is expected to know *something*, to be able to read at least ; but even there some one must occupy the lowest place, and may do almost nothing. Other situations in like manner may require little, though *some* qualification ; but however little, even these are above the minimum, and the want of them should not put any aside, or even excuse them performing their full part in daily life, while at the same time they are entitled to fair, equal treatment from others, and to all their rights the same as those more talented or more seriously occupied. Thus in receiving and answering letters,—an important part of business often,—while they might not be able to carry on a complicated correspondence, they are entitled to receive and send unimportant letters or notes that may contain little perhaps but bare intimations, requests, etc., the same as others receiving more important letters. It is to be remembered also that there are always *two* parties connected with every letter.

But even answering letters is not necessary, though receiving is. A person may be unable to write, and yet he is entitled to his rights. In that case he makes his mark and gets some one to read his letters for him ; but he is expected to perform equally with others his duties as a citizen and member of social life. These duties we have seen need be nothing but what any one can perform. There is thus no excuse for transgressing that very distinct line that separates lawful from unlawful, competent from incompetent, useful—however little—from useless, like good coin from bad. To try to excuse anyone as if it were too difficult for them, is as if the last in a class should plead that there was no use of

of strict right and law should never be made to depend upon mere goodwill. This is all the more important because it is sometimes meant to do fair, but it is afterwards found, from stopping at literal and technical law, that it is not so. We must see that the real meaning of the law is carried out to the end—that the thing is really done, whether irregularly or formally, and not trust to chances or formalities. Fairness may involve little important matters beyond forms, etc. In short, neither technical law nor mere good-will are enough; whatever is necessary should be done, or the whole is vitiated, spite of our intentions of being both just and generous.

Keeping a person in ignorance of what he should know is a form of evil, and should not be left to be corrected by friendliness; other motives, such as a sense of justice and the common good, should lead to this. There are various other forms of evil lying beyond the reach of literal and practical law, which people are too apt to think that they are free to act in as they choose, as if there was no law at all. They are almost always accompanied with the violation of strict truth, or with the doing and saying *something*, so that they are not mere ideal wrongs, and of course are quite susceptible of being noticed and checked. They might be borne evidence to and proved, quite as much as the most flagrant violation of law that is punished. Why are they not then? it will be said. They are generally more secret, and the evidence difficult to get; and, perhaps, being connected with general society, or the mere circumstances already alluded to, of being looked on as beyond the law, and everyone despairing, as it were, of any remedy for them, leads to the real remedy being neglected—that is, the remedy of general opinion were each to speak plainly what he thought, or perhaps to second the law in some cases, or still more—and what is perhaps the real and appropriate remedy—by contradicting what is untrue, by telling, giving information, and putting things right, as it were, where we see them to be wrong. To go out of our way even to do this is very different from acting on the principle of being careful not to meddle with “what we have nothing to do with.” There, doubtless, are things of that kind; but there are still more where such a principle is made to excuse mere selfishness, caution, and laziness, or self-interest and avoidance of

annoyance, to the neglect of what is the common interest : the other maxim, already alluded to, of "what is everybody's business being nobody's," being practically acted on, instead of each seeing that it is his business, and making it such. To sit and hear what is strictly untrue said, or to know of any wrong going on, without doing or saying anything, is, in a manner, to sanction them. If we say we cannot know for certain whether it is mischief or good that is being done, if that is the case, it is indeed different, and we should be careful not to act in such doubtful circumstances ; but there need be no doubt when it is anything against sound morals or which is strictly untrue : to correct a party by stating the exact truth can do no harm if he means no wrong. We know that no excuse can ever be pleaded for what is immoral ; that no good should be in any circumstances sought by such means.

Presuming consent—parties acting for others without authority, usurping authority over others—supposing others to know when they do not,—misrepresentations, are all forms of evil accompanied with what is strictly not true. The doing things out of time and place, without a fair natural opportunity, often accompanied with mistakes, etc., is of the same nature. All are cases where we need have no hesitation of their being wrong. Sometimes, no doubt, a direct and simple question, yes or no, may be needed, and that is easily put : in most cases a party has a right to put it, or he would, and should not know of the circumstances at all. If a person's presence and silence would be looked on as a positive sanction, surely he should have some means of guarding and keeping himself clear. Nearly all these are connected with the use of speech, and are to be corrected by the same means. It is, therefore, in everyone's power, and no excuse can stand good for not using it. It is sometimes said, "But what could I do ;" and *that to many, or most, is very true.* To *act* against those who may be rich, powerful, or in combination with others, without the means is impossible, but *speech* is always possible, and we should not despise it ; it is merely moral courage and decision that are called for. Action pertains more to literal law proceedings, and that is what few can grapple with, to say nothing of there being often no tangible grounds to go on,—that is, they are not tangible enough to be taken up—want of witnesses, or still

more the want of money, or the law does not even pretend to deal with them ; its very proverbial uncertainties, besides, makes it different from the sure grounds upon which we are supposing parties to act in regard to truth and fact. It judges, sometimes, no doubt, of matters of truth and untruth, and fears of it, perhaps, may keep some from contradicting what they know to be untrue ; but we must suppose, if ever such a simple matter as truth and untruth was taken up at law, it would be so clear as to leave no doubt of the decision ; but, at all events, no fears of such consequences should prevent any doing what is a moral duty. It is in the main what *cannot* be taken up at law that we consider, though they may partake of the spirit of the law ; but that should not be made a reason for thinking that there is no law to guide us, nor that we should do nothing. It is not doing nothing if we contradict before others what we know to be strictly untrue—speech, though not strictly action, is still something positive. It is certainly true that such speaking will neither gain us damages, nor prevent the party from still going on in saying or doing the same thing. We can't prevent others doing as they choose, as we might if by going to law we could get the law on our side ; but it is doing a great deal if we can get public opinion on our side, or even give rise to doubts and inquiry by others ; and this opinion may, indirectly, put a stop to what otherwise would go on. The use of speech, then, to prevent misrepresentations, and form correct and true public opinion, and thus put a stop to many wrongs, should be viewed as a distinct sphere lying beyond literal law ; and that we cannot get the last is no reason for not using the former, which always lies in our power.

There are apparently little matters, connected with strict truth, that like a wall separate and distinguish man from man ; they make different persons, and are the guards and distinctions of different characters, opinions, and sentiments. They are like the partitions that separate the rooms of different parties in those buildings to which the public resort ; though next one another, and distant only a few inches, such partitions effectually separate persons, perhaps of the most different characters, or even enemies, without their seeing or knowing of one another. Any disregard of what thus separates parties would be felt as a serious grievance, for

Justice to the poorest and richest. It is then that real good is got. It checks and turns, brings to a standstill, and some other way must be found, though involving trouble, or even though we could find none, and had altogether to halt, which men are often very disinclined to do.

This is no interference with liberty, quite the reverse. To make exceptions, differences, etc., is doing something positive, and more like doing so, and may sometimes be attempted to be excused, as being a defence against the abuse of liberty in others. But, however that may be, it is not the proper remedy, nor excusable. None should be made different from the rest of any community; all should share alike for better or worse, and let wrongs be remedied in common, according to the right rule, the same for all.

Foundations are in the dark, and covered up more or less with rubbish; but that is no reason we should allow any to do just as they liked there, as they might while lurking or living in cellars. They might live and act as they choose, but one express condition should be, that on no account were they to meddle with the walls, whether for the sake of enlarging their rooms, or any other reason; and there have been instances of whole houses being brought down, and killing many, by this ignorant tampering with walls for the sake of doors and presses. There should be the same absolute rule as to the foundations of social and civil life. We need not insist on talents, riches, or fashion, but, on no exceptions being made, which is the same as no tampering with the foundation walls.

We have already shown that there are bad consequences that naturally arise, which on reflection we may foresee; but there are other consequences in what men do on purpose, by taking advantage of opportunities. Once the rule is broken in upon things may be trained to suit many a purpose, and many who would not deliberately break through a rule of right and wrong, will take advantage of its being broken. It is working in the dark. Even those most in favour of what is right can do but little except in individual cases perhaps. It is like a fire or a shipwreck where all order is lost, and each tries to save himself, with here and there an instance of some, more courageous, trying to assist others singly. Could the commander obtain order much might be done

is not in the field if we remain silent. If things are allowed to be said and done amid the darkness of ignorance, there is nothing to grapple with them, to check them, or even to excuse others in attempting to prevent them. We rather make prisoners of truth, if we lock it up in our own breasts. It is fundamental rights and liberties we consider, and surely it is quite appropriate that the statement of truth and fact should be found there: we are sure on our ground; we need have no hesitation, nor wait any longer to see and know bad consequences before we say or do anything. It will be too late then to prevent or to check such consequences, and what will those that suffer care that they are not to be done again, or, perhaps, for any reparation that can be made. Punishment or reparation, generally so doubtful, are different things altogether, we might almost say fell to different parties from those who are bound not to allow wrongs to be done among them. If they can not literally and directly prevent these being done, or even be sure that they are intended, the light shed by truth and knowledge can do no harm; and what is that but the use of speech, which, if not action in one sense, is what must always accompany action and form a preparation for it, whether we go further, or find it best or proper to do nothing, in which case, however, we could not reflect on ourselves that we had done absolutely nothing.

To act thus in all the foregoing matters is to act reasonably. Prompt decision to act at once will often be needed; and at other times moral courage to speak the truth. Though it does justice to all, the weak or poor as well as the strong, it is also the fair and manly course. It comes in the place of mere taking advantage of ignorance or weakness. These advantages and disadvantages generally depend upon chance circumstances—no way dependent on talent or industry. *Where* a person happens to be situated may deprive him of advantages others naturally obtain, or his business or his pursuits may. If it is said that every one's friends should assist him, or see that he gets justice in such matters, that also often depends upon chance or mere secondary circumstances: one man may be out of the way so as not to be able to make friends; another may be quarrelsome, or he may be retiring, and not apt to make friends; the business of another may lead him to have plenty friends and acquaintances, while

that of others may be the opposite ; and where there are few duties there will be apt to be few friends or acquaintances. In short, the number of friends a man may have depends much upon his chance position ; and matters of justice and right should not depend upon such things. They may be all very well so far as they go, but should not be trusted to, so as others to excuse themselves on that account. A man might lose his friends, or they might be against him,—there are circumstances in which the justice and fair play due, and to be expected from the general community, is of far more value and importance than that from friends. It is a different thing, and cannot be made up for by mere friendship—often not to be distinguished from self-interest, and, of course, apt to be thought more a matter of good feeling than of right, and thus give rise to feelings of delicacy, which the impartial conduct of others would save him from. Friends and acquaintances might view things in the right light too, of course ; and it cannot be denied that much will always fall to them to do ; but though a man may be away from, have quarrelled with, or have no friends, he is equally entitled to justice ; and yet these he will be less apt to get if others excuse themselves on the plea of everyone having friends. It is only manly that everyone should go out into the world, where he has no friends ; but this should be made neither too difficult nor dangerous by mistakes or unfair meanings in others, or it might become like those countries where no stranger dare to travel for fear of his life ; a moderate care and circumspection should be enough. It will also be said that a person should make inquiries, etc., or take care of himself. But that, too, is to leave things at the mercy of what is often mere incidental circumstances. A person may not know one to inquire at. Many interested motives may lead to some getting information much easier than others. The nature of a business and chance circumstances have a great deal to do with it. Important rights and interests which may be legal, or moral, or natural, should not be left to chance. If we mean to do fair, this is not the fair rule. In their own proper place such advantages are fair enough, and form part of the diversity of life, but they are not the only thing fairness requires.

That civilization and freedom are involved in this is plain.

Friendship may be mixed up with subserviency: the rich have many friends; so that we need higher or more impartial motives to secure equal justice to all. It is no unimportant matter what principles a community act upon in reference to these things. We may go on the principle of making a sharp distinction between what we think personal to anyone, and what all are concerned in; may say we have nothing to do with the former, and thus very easily be turned away from taking any interest in one another. And yet this is to go against the principle that lies at the very root of freedom and equal justice. "Where each feels as an injury done to himself any wrong done to a single individual," is one of the marks given of a free and well-governed state. It is only the strong helping the weak. To see that each gets fair play, especially where most likely not to be got, is the most important guard of fundamental rights, and is the true making common cause with one another. It is unselfish, and agrees with the exhortations of both morality and religion. It is neither faction nor combination; and there is no need of these when adhering to a common rule and law. It is not meant to say anything against friendship and association; in their own place they are excellent, but it is only a proverb that the best things become the worst when abused, and so these when even only extending themselves beyond their own proper sphere become causes of corruption, or are indirectly so by preventing what otherwise would be done—by being put in the place of that equal, impartial rule, that does not regard personalities. There are often more things to be attended to, if we would do justice or retain freedom, than we at first think. We act justly in *one* thing, and suppose that is all: but something more is often necessary; yet it is not unreasonable, nor does it require too much; for when we have done it all—but then, and then only—real good is secured. We do our duty as friends and acquaintances, but leave out the wider and more unselfish duties that take in all. This omission is of more consequence than at first we would suppose, for it renders vain the good we otherwise do. If the broad and coarse foundation of a building is not first secured, all that is done afterwards, however excellent, will be rendered vain; and so there may be still a cry of injustice amid much of what is

excellent in the way of friendship, association, or even charity **i**tself. If we have not this knowledge and telling, we can only **h**ave implicit submission, and that is not what is best. It **l**eaves those entitled to act reasonably at the mercy of others, and **w**hatever treatment they meet with, it is always different from **r**eceiving their fair rights. To be at the mercy of others, in any **c**ircumstances, can never be freedom, independence, or pleasant to **a**ny. Implicit submission, though best in the circumstances, is **n**ot always to be had, nor even, in certain circumstances, expected, **a**nd confusion and mismanagement arise; that leads to tricks, **i**rrregular efforts, and mere expedients, none of which are the true **r**emedy for what is wrong.

This is only another step in the advance of freedom. It is necessary for its full carrying out, and becomes more so, and not less, as time goes on, and as the previous advances are secured: we must advance, or else things will go backward. As freedom, in any of its various aspects, is often rendered vain by some one **w**rong, so here. Thus—to consider the various stages in the rise of freedom—we may have emancipation from literal slavery, the lowest step of all, but still there may be serfdom, arbitrary oppression, cruelty, spoliation of property. These, too, may be abolished, and, instead of what is arbitrary, laws may be introduced. This last is an important step, and for a time may do good, but oppression may still exist. Laws may be suspended or set aside at pleasure, taxes of an oppressive nature may be wrung out, and unjust and unfair laws enacted. These evils, too, may at last be put a stop to, and yet wrongs and oppression still found to spring up, and further exertions, care, and attention to particulars found to be necessary to get rid of them. Amid no want of laws, and just laws too, something may render them practically of little or no avail. The law's expenses may be too much for many, or its delays amount to much the same as if there were none. They may be evaded, or some little point make them of no use. But even if all these things were put right, and laws made as perfect as they were capable of, it would be found that there is something beyond them more than they can take in that would require to be fairly and justly carried out:—that is, things that in general are more voluntary to us.—“There is something

beyond the letter of the law."¹ And though, in general, it may be true that men cannot be *forced* in such things to be just, it has been shown how very many things may make a very great difference in the extent to which this fairness is either acted on or neglected, altogether independent of this downright refusal to act upon them—ignorance, carelessness, natural selfishness, custom, opinion, and fashion itself, all forming motives that actuate the conduct of very many, and capable of being more or less influenced. And it is to be remembered that though one step has been made, and a higher stage reached, we must go on to the next, or very soon find the same evils pressing upon us, though in another form, and perhaps in that form felt more acutely unjust than before.

¹ "Prior."

"A truth-speaker is worth more than the best police, and more than laws and governors."—*Marg. Fuller.*

CHAPTER V.**FUNDAMENTAL PRINCIPLES AS TO LAW AND LIBERTY, ESPECIALLY AS REGARDS PERSONAL FREEDOM, WITH PRACTICAL EXAMPLES.**

Fundamental rights admitted in political and civil things, and should be the same in social things. Distinctions. Undermining. Consequences. More than mere classifying needed. Even the least entitled to their rights. There should be no half-state as to health. General health and distinct illness. The right rule should be at least known.

" And simple truth miscalled simplicity;
And right perfection wrongfully disgraced."

—*Shakespeare's Sonnets.*

The foundation of a building is of the utmost importance ; however good the superstructure it will be liable to fall if the foundation is undermined ; in like manner, in social and civil matters, nothing will be secure so long as we neglect what is lowest and most obscure, and leave anything to be done there ; our institutions, etc., however excellent, will not prevent this. Thus, to secure the foundations of civil things, it has been found necessary that no one should be deprived of liberty without a distinct accusation and speedy trial. This has to be acted on as an invariable rule with no exceptions—no prisoners without distinct accusation and trial. To be liable to arrest without reason assigned, and to be without trial, was found to be the great grievance and oppression in arbitrary countries, and that to admit any exceptions to the opposite rule would only be to leave room for those very cases which were most unjust, for those who wished to act unjustly would always pretend that theirs was an exception to the usual rules. Better that some escape than that others innocent should be punished, and the peace and security of all destroyed. Exactly the same principle applies to civil and social matters. We must have a fixed foundation on which to rest ; that is a secure invariable rule or law with no exceptions, for otherwise no one can tell which are exceptions, and everything becomes doubtful and insecure. We will be naturally less inclined to allow this in social matters where we act most according to our mere

inclinations, likings, or according to whatever may chance to be the fashion or custom. Perhaps, however, for that very reason we should have a fixed foundation, or a distinct line where this should stop. A foundation of sand may be easily undermined and then the wall falls down, and it is the same in social life. If we have no fixed line beyond which we refuse to go then *anything may be done*. It is plausible but delusive to think we can allow exceptions, for though in some cases they might do no harm, strangers and others cannot know this; all they see and know is that the rule is not acted on, that such things are allowed, and that they and all others—for such knowledge quickly spreads—have an equal right to do the same, at all events they will try. Plausible reasons, besides downright deception, which in some cases will be often practised, may always be brought forward for making exceptions. In short, it is not enough to show, however clearly, in any one case that it would do no harm. To impose silence and secrecy, as is sometimes done, is certainly next best to not doing it at all, but it is needless to say secrets are not always kept, and besides, one or two instances would soon inform a good number of individuals. Even for good is not enough; good and bad must here be allowed together without trying to separate them, as we are tempted to do; but this, however, is on the supposition that when we know and are able to exclude the wrong we do it; we must not allow tares to be sown if we can prevent it, but afterwards must leave them alone.

In civil and political matters we have as fundamental rights, invariably acted on, with no exceptions, the absence of such things as *general warrants*, or detention in prison without trial, or the liability of a house being entered and searched without a distinct written reason and accusation. In an analogous manner in social life we might specify as lying at the foundation, and what we ought to be able to count securely upon without any exceptions, such things as—that everyone is taking things with proper seriousness, that none are acting a mere part as if in jest, or with any other design; in short, that all are so far equal and doing their full duty in social and civil life. This, when we come to consider the routine of daily duties which everyone has at the least to go through, cannot bear hard upon any, even the weakest;

—to partake of meals generally along with others, to walk out and perhaps to purchase some common article, or pay for admission to some place; these and the receiving and answering ordinary letters, are the only duties that *necessarily* may fall to everyone, and inability to discharge which sets the party aside entirely into a wholly different class, and whom we would not expect to meet in ordinary life, seeing he could not discharge its simplest duties. Children we could not trust with money, or to go by themselves; but all others are expected to perform such acts, and all see at once the age of a young person without requiring to be told. No doubt most have more serious duties than these to go through. At college everyone is expected to know *something*, to be able to read at least; but even there some one must occupy the lowest place, and may do almost nothing. Other situations in like manner may require little, though *some* qualification; but however little, even these are above the minimum, and the want of them should not put any aside, or even excuse them performing their full part in daily life, while at the same time they are entitled to fair, equal treatment from others, and to all their rights the same as those more talented or more seriously occupied. Thus in receiving and answering letters,—an important part of business often,—while they might not be able to carry on a complicated correspondence, they are entitled to receive and send unimportant letters or notes that may contain little perhaps but bare intimations, requests, etc., the same as others receiving more important letters. It is to be remembered also that there are always *two* parties connected with every letter.

But even answering letters is not necessary, though receiving is. A person may be unable to write, and yet he is entitled to his rights. In that case he makes his mark and gets some one to read his letters for him; but he is expected to perform equally with others his duties as a citizen and member of social life. These duties we have seen need be nothing but what any one can perform. There is thus no excuse for transgressing that very distinct line that separates lawful from unlawful, competent from incompetent, useful—however little—from useless, like good coin from bad. To try to excuse anyone as if it were too difficult for them, is as if the last in a class should plead that there was no use of

asking *him*, that the task was too difficult, that he ought to be allowed to do nothing but to amuse himself; others on various excuses might try to get the same privileges. But very properly the answer would be, No! all must have an equal chance and equal share; you will be asked regularly in your turn the same as the rest, and though you should not be able to answer you will always have to make your appearance and go through every routine the same as the rest. This would prevent a feeling of distrust or envy in any, as if some among them were getting easier off than others, as if all were not equal. But it would probably be further said that the task was not too difficult, and at all events that mere idleness would always be ready to make one plead such excuses. In this case the invariable fundamental rule, never broken in upon for fear of throwing everything into confusion, would be, that all make their appearance, go through the same routine; and for that no talents are necessary. Something might be said also of the prospective advantages all would equally share, even though they had learnt nothing but still had fulfilled all the duties.

But health is apt to be pretended. It is at least a known and allowable reason; what is wrong and not allowable is double-dealing, being half and half, taking all the advantage of one in good health, and yet making it an excuse for escaping from all the disadvantages, disagreeables, and duties of life. When anxious to engage soldiers the standard may be lowered to the utmost, but there is a distinct limit where they must stop, or else the would-be-soldier would only be an encumbrance to the rest, if, from his health, they had always to be assisting him and excusing him from duties; this would spread to others and lead to idleness and disorder among those who had no excuse, besides the great extra trouble it would give in making distinctions instead of acting on an invariable simple rule the same for all.

It is sometimes easy to make distinctions, as when we see that a person is under age; but nothing is more disagreeable or gives rise to greater confusion, distrust, suspicions, sharp dealing, than when we cannot make them or when it is difficult to do so, or is uncertain, as when it is easily done at some times and places and not at others. It is as if we did not know in a regiment who to

ex~~cuse~~ from duties on account of wounds and sickness, and could **o**nly go by guess work. What unfairness would that give rise to ! **S**eparate distinctly the one party from the other is the only way ; **a**ll the sick and wounded by themselves. No great importance **t**hough there may be not much the matter with some, better than **c**reating confusion and mischief by mixing the sick and whole. **I**n short, there is a certain minimum of duty that all must be prepared to go through, or else leave and join those otherwise classed. **T**o oblige them to do this, they must not be allowed to be in both **c**lasses at the same time.

This is the great fundamental rule, and so far it is what is **a**lways acted on. Thus, whatever freedoms or improprieties are **a**llowed in social or civil life, there is a distinct line, and no **w**ealth or rank excuses any from the breaking of certain laws. **T**hey would be put into the class of common thieves, and out of **s**ocial and civil life, if the fault is of that nature. It is felt it **w**ould never do to give in to making distinctions—that this one **w**as to be excused on account of his wealth, another for his rank, **a**nother for his health, and, doubtless, other excuses that would soon be found out. Who could, off-hand, know or make such distinctions ? Is the wealth great enough ? Is the rank high enough ? Is the health bad enough ? To say nothing that the appearances of these are often very doubtful. The same principle, as being of the same nature, runs through other things, though we are accustomed to view them in a very different light from such flagrant breaking of laws. They may give rise to confusion and mistrust, though we see little of what is moral in them, or think them excusable. We can scarcely continue to do so, however, when we see the consequences, and that they are the inlet to everything that is bad, abolishing and making vain the rule of morals, of seriousness and accountability, leading men to take no proper interest in one another, but rather, as the phrase is, “wanting to have nothing to do with one another.”

But to recur to the mischief done by injuring the foundation. This is done here when we once give in that there is anything to excuse some from performing their full equal part in social and civil life—which we have shown is not too much for any at the minimum. Then anything may be done. There is no foundation

for society. A ball, in descending, springs up again from the ground, and in society we should be able to count upon a foundation where descent stops, or, rather, on certain fixed rules never being violated. Otherwise it is as if men, in contesting at a game, never could come to any result, because some had unfair advantages, and could make changes when they felt themselves likely to lose. All becomes vain, or else others learn to do the same, thus spreading the evil, and making it a confused scramble, instead of a fair and interesting trial of skill. Water running into a cistern, however slowly, will fill it in time, if there are no leaks; but if there are, however little value we may think the water lost, the cistern will never fill, and the damage done to the house may be very great. It is the same in social and civil life, when the fixed fundamental rules are departed from. In vain we look for good coming in time, and in the meantime corruption is spreading, like the leakage spoiling a house and furniture. The individual injuries may be small, like stones picked out from the foundation of a wall, which even children might do in sport, but which, if carried on, would bring down wall and house. We stop that the moment we see it, and should do the same in social or civil life, though it be not a tangible thing like stones, but moral and intellectual.

“Till, like a miner working sure and slow,
Lawlessness creeps on, and ruins all below!”¹

It should be classed with those things that all are concerned in preventing—as fire-raising, inundations of water, spread of infectious diseases, etc. Where are we to stop? Is it not best at the fixed rule? As a traveller, when he comes to the parting of two roads, has to follow that the post directs him to, and every step along the other would only carry him farther from his journey’s end; so, however unimportant we may think the rule or principle that should guide us, all that we do after violating it will only lead to confusion and wrong-doing. Like turning on a road, it may be somewhat sharp, or even be disagreeable, but that is necessary, and only a sign it is right. It is the nature of all law to force men, irrespective of other consequences, to adhere to what is right, and gives equal

¹ Crabbe.

An eminent Sheriff, in deciding a case, said, "He had always had great reluctance to grant warrants, which may, and often do, amount to imprisonment for life on the mere opinion of two gentlemen, who, however respectable, may be very young, and who may never have made mental science an object of practical study. He has often been startled with the vague expression of the grounds of the opinion of unsoundness, such as, in one instance, when all the evidence was said to be that 'the man does not speak common sense.'"¹ Nothing is more inimicable to liberty than *vagueness*. And on this very subject it has been complained that "the principle of legal interference has never been laid down in terms," and proposed that "the law should step in and restrain, only when any exceptional conduct is such as would bring him under the penal grasp of the law—in other words, when it would lead to crime" . . . "excluding merely actionable aberrations."² This gives a distinct rule and limit, and others have proposed the same. It might be added it is all that is necessary, for anything actionable would lead to explanations, and throw light on anything else, if there was such. Thus there was a doubtful case of a person knocking at doors, etc., etc., but, as is a common case, light was thrown on the whole subject. We forgot how it was decided, but suppose the party would have to pay for the damage and give security for the future.

Some doubts appear as to whether the distinct line of danger is the law or not. In a celebrated case in 1849, the Chief Baron said to the Commissioners, "It is my opinion that you ought to liberate every person who is not dangerous to himself and others." But the Commissioners said, "There are dangers when there are insane delusions, though nothing may have been done." This, however, was probably meant to be included, at least in some cases. It is to admit an important principle at least, though there might be differences of opinion as to its limits. The law, however, was said to be for others besides the dangerous (s. 9, v. 100, 126). The Baron considered all erratic delusions in religion as independent matters of opinion—"being safe and harmless on every other topic." At that time what was necessary was a certificate from nearest relatives with nature of the case,

¹ Sheriff Barclay, in Jour. Juris., April 1874. ² Tangled Talk, p. 82.

to save all and the ship too—casting out anchors, setting sails, etc., etc. In all such cases men are prone to ask, what can I do? It is hopeless and useless for *one* man to do certain things unless the rest assist. And that is true. It might be said, however, see and restore order—that is the first thing. Use your influence in that way. It is analogous in social and civil life. We may think that we cannot force others to do right; that it is too great a work; that we will try and get on as best may with things as they are; that at least there is some measure of good. But as time goes on we shall have more of evil and less of good; and we may remember that the efforts of even one towards what is the first step might lead to others joining, and contribute to the formation of public opinion. Single efforts are thus not altogether vain; and, at all events, they are an answer to the question, What can I do?

If a person has built a house on a bad foundation, and as it rises rents begin to appear, he may grudge to pull it down, and think to prop it up here and there; but good advice will tell him that really the only thing is to pull it down and begin anew—that the foundations are obviously not deep enough—that the higher he builds, it will only become worse. If he leaves it alone he loses the use of the ground; and he may think at last it is best to begin anew, without risking further loss by continuing to build on a bad foundation. He has to dig down to the rock, when he need not go farther, and all that he builds after that is secure. The difference between law and lawless rule and no rule, equal and fair dealing and evasion of all responsibility, is like building on sand and on rock. It is not a small distinction, such as we meet with in most things, like divisions and classes.

Bodies of men are generally classed. In schools there are classes, and in colleges also. Prisoners are likewise classed and distinguished from one another; some have done very little wrong compared to others. But, however important and great the difference between these classes, they are but little known or attended to, except by those who know the particulars. The outside world knows what a prisoner means, or a school-boy, or a student, but it pays no regard to the circumstance that the highest school-boy may be farther advanced than the lowest student

at college, that a person in prison may have done very little. An officer on the point of imprisoning a person may try to persuade him voluntarily, and at once, to submit to his fate, by telling him he will be well enough treated, get plenty to eat and drink, be soon released, etc. ; but the man would certainly do all he legally could, at whatever expense, to keep himself out of prison, knowing that his friends would hear that he was imprisoned and would probably not hear any explanations, that his business and prospects would be ruined, that ever after it could be told against him. He would not then wish to be put among them. Whatever subordinate distinctions there are, therefore, and however important, they are quite different from those other broad distinctions that all at once recognise, such as a school-boy, a student, a prisoner. In general, we cannot be always explaining, and must keep to the broad simple differences, and anything that confounded them would confuse things. School-boys are younger, and have less knowledge than students—a prisoner must have committed some offence. If not, the words, and the things themselves, lose their meanings ; or we would feel that we had been deceived and imposed upon.

This is of the more importance, as it is classification that is generally relied on to obviate the evils complained of. But it is not enough. A prisoner may object to being a prisoner *in any way*; it is the name and thing, even though he were to get better food and accommodation than he could provide for himself. Notwithstanding subordinate differences, then, all should be the same. We ought to be able securely to rely on this. It is the trust and confidence that lie at the bottom of civil things. Anything that destroys faith is bad, though it may be difficult to see and tell beforehand all the consequences, which are greater than we would at first expect from a cause so little visible, apparently small, and generally supposed never to be wanting. Money could be counted in the dark even, if we could rely on all the coins being of the same value ; we don't require to see them—so in society. Nor does this make things too easy ; it is something simple and easy that is needed to suit all parties, and any exception to it should be treated the same as a bad coin is, and as rarely occur. It is granted that persons may be disqualified for situations or for

transacting intricate pieces of business, but all these are above the lowest standard common to all.

There is nothing more disagreeable, confusing, and miserable than what arises from the mixture of people acting under different rules, and totally unlike one another—such as those old and young, those in good health and those in bad, rich and poor, educated and uneducated, those who wish for quietness and repose and those who like games and noise ; we might add those who drink and those who abstain, those who read and those who sing and talk. Though disagreeable it might be our duty to get on with these—they are open and known differences ; but we could not get on at all where there was absolutely nothing in common—no common principle tying all together, however various in some respects,—a different rule of morals and acting ; it would be worse even than one who spoke only a foreign tongue. It favours confusion, an utter want of seriousness, faithlessness, deceit, treachery, so that to say or do as little as possible is thought the best plan by those who mean well. That inanity and insipidity should arise is natural. It is worse than folly, which might be merely disagreeable and a waste of time.

There is no excuse for dragging in another rule, seeing so little is required in social or civil life. A person need not go out even if at all indisposed. He may, however, at last have to give in and go on the sick list, and that is a distinct step. Until then he conforms to all the usual rules. There is no half and half or doubtful state. It is as if the cure were disagreeable or infectious to others, and therefore not had recourse to unless absolutely necessary and requiring distinct steps to be taken. That it is temporary or of small amount does not alter the nature of the case, seeing it is the *mode of cure* that is the unfair thing—at least, to others. If it is said that one may pretend he is well when he is ill, the answer is that that is his own affair. So long as a workman can go through his allotted task that is all the master requires. What would be really wrong would be one pretending to be busy only in his master's presence, and then dropping work behind his back. It is equally wrong in anyone to pretend he is conforming to the usual equal and common rule of things while he is not.

Folly, even, is entitled to its rights the same as others ; and it may only feel itself excused and made worse by being deprived of any of them. Whatever way it is to be dealt with, this foundation should not be tampered with. This, indeed, is probably the greatest cause of interfering with rights. It is not natural to assist those whom we do not like, or who may be offensive. We may think that they deserve the treatment that they get ; so that while we would assist others whom we thought more of, we let ~~them~~ alone. But this is not the spirit of civil justice and freedom, which is without respect of persons. Even those deserving punishment are entitled to have it not too great, but also that it be of the proper kind. To meet moral faults, carelessness, inattention, selfishness with civil injustice is not right. It, however, gets its revenge ; for such injustice spreads like a leprosy and reflects back upon those who begin it. It opens a door that gives free scope to all who wish confusion and wrong-doing. We may wish and intend to confine it to those cases we consider necessary or excusable, but it will not be confined to them, for nothing is easier than to make an excuse for an exception to a rule, if exceptions are once admitted. The proper spirit is to assist even those we dislike to get their rights, and that as a public duty, knowing that their violation is a public offence. Thus, to intercept letters may be easy, but how can we be sure that if once allowed, the same will not be done to ourselves, or if not ourselves, to our friends or connections—we would not like to see it become a common practice. It is the same with many other evil things. While respecting civil justice then, even in regard to those we dislike—don't think much of, or disapprove of—there is still much in our power by expressing our opinions, refusing to have intercourse with, not patronising, etc., by which we can show our disapproval, discourage and so far punish those not acting as we think they should. Whatever we may think of it, others have often the right to do wrong if they choose, and we have no right to prevent them. There is, however, a strong temptation to do so when it happens to be in our power, as in the case of the weak and others ; but in the long run, no real good is done by means which are not themselves right.

The same principle of having one uniform will for all, allowing

no exceptions, and, where necessary, completely separating every thing heterogeneous, is acted on in many other things. In carrying merchandise, we insist that any dangerous packet be kept by itself. Where the plague rages there is a quarantine. At social meetings all put off their rough, outside, soiled, or working clothes, and comply with the usual simple rules. No violation is ever allowed. There is a certain degree of sameness and equality. It should be the same in civil things; certain fixed limits which form the groundwork; nothing can be done where there is constantly changing or liable to be changed. It is intriguing, caballing, or conspiring even, at least what is called privy-conspiracy, to have some other rule of action than the common one. Others should not allow what single parties in exigencies may try to do. It is ignorance or remissness not to see that the common interest is involved.

Finally, we found that in civil things the foundation and the minimum of rights lay in purchasing for ready money, as from a shop, and in receiving and answering letters. These will be found to involve a great deal. They should be jealously guarded not only in one case, but in that of everyone we know of. No exceptions should be admitted, so that to hear of an instance of their violation is to be certain that it is what we ought to bestir ourselves in, make known to others, and have vindicated and punished as soon as possible—the same as if we had heard of some atrocious crime, only we should not trust to handing it over to others, but feel as if our own interests were attacked.

Rights are generally connected with property, and where there is much especially they are most apt to be respected, but apart from property they should be respected too. It is this properly—that is respect for law and liberty, in the other case it may be merely for money. A person may have no property, may be living with another even, but still is entitled to these fundamental rights. Yet there is both a facility and temptation to make free with them; and such parties themselves are not in an advantageous position either for maintaining or vindicating them. Their rights, therefore, should be the more jealously guarded and cared for by *others* assisting them, to be sure that they get them; and others often come to know of violations that the parties

give rise to such cases. We should have something else to do than merely *take advantage* of them. We would not be entitled to deprive such persons of liberty, except they had broken some law for which they ought to be sent to prison. Those in prison we never suppose there without good cause, there is no mistake—anything else is an abuse, and would confound innocent and guilty; so here there must be something distinct and permanent before any difference is made, and this accompanied with the usual serious legal forms, as if we had permanently to take care of the property of an intoxicated person, for this would be crossing over that distinct line alluded to, when we might be accused of theft and expose ourselves to serious consequences.

All these other differences then might be treated as mere cases of health *in the usual way*. Body and mind act on each other, and it is said the former is often wrong where the latter is blamed; and this favours such cases being treated in the usual way. It is to be said, too, that apprehension of approaching illness is no reason—it rather proves that the person is still well. In some cases it might tend rather to bring it on prematurely so to treat it, especially if everything was not done with the entire good will of the party. The strict line of the law is of the utmost importance; and that is, we must wait till a person is distinctly unwell *first*, as much as we must wait till some wrong has been actually committed, before we take legal steps. And even for the sake of these precautions which may be of importance, there should be nothing to give rise to suspicions that anything else but what was quite voluntary was meant, for that would only repel any from having recourse to advice or precautions beforehand. Every man knows best himself whether he has done anything why he should be put in prison, and it is the same way here—it is *serious to treat unjustly conscious innocence*. Of course, it is the *distinctness of the line* only that is meant. We don't think all out of prison innocent, yet it would be unjust to put them in it. There are all varieties and degrees both of guilt and health. There are hospitals, refuges, temperance homes, and places even where those conscious of their weakness may submit themselves to voluntary restraint. We would not like our prisons treated that way, so that none could tell whether anyone confined in

and the different degrees of good or bad health looked on in the same light as we estimate the strength, or weakness, of men, supposing we intended hiring them for work, or their cleverness, ignorance, activity, usefulness, or the reverse. If a person's income depended on the time he was in health, no doubt he would deduct only the time he was confined to the house. There is no hardship in this. If a person is not strong, he has only to avoid the work of strong men, or to avoid too much exertion ; and no occasion for always explaining whether this arises from bad health, something else, or laziness even. In ordinary life we are always making such distinctions, as between a strong and weak man, a young man and old man, an active and useful man, and one who does nothing. As long as a person can go about and do anything he is to be classed among those in health (without stating degrees). There are many instances of men over a long course of years doing a great deal of work, though to compare them with others at any one time they are in very bad health, suffering from some cause or other. In short, few are in perfect health, or without something to complain of, and very generally those who do a great deal of work are not. There is the health and strength required for a soldier, for an active workman, for a professional man, and we might add perhaps for general society. All these are more or less organised, and have their requirements, laws, and rules, or etiquette even, which should be complied with ; but there are others still to whom they do not apply.

A person in delicate health does not need, in general, some one to go before him, if he has to go out for exercise, to tell all that he is not strong. In an extraordinary emergency that might be necessary, such as a leak on shipboard, where all had to lend their hands at the pumps, when he would be excused. In ordinary life nothing is expected to be met with requiring any difference to be made between one man and another. The treatment of all should be the same : no difference made. If they really do require to be made, they should be well marked, and such as none can mistake ; —as in the case of an infectious disease we would not expect such a person to be going about at all, so in the other case there should be something equally marked. Of course it is not meant that all are the same; but as in social life we would not allow some to be

he was not so bad but he knew he was doing wrong. Why was he there, we might ask? It might be only justifiable homicide, for what right has one in the most galling and insulting way to deprive another of liberty. No doubt religion teaches that all injuries should be taken patiently, but except for a good distinct cause no man should be deprived of liberty—"hopeless confinement for life," of the most degrading kind, at the mercy of arbitrary power, is about the worst evil that could befall a person. If a person has to answer with their life for what they do they should have a fair chance. There would have been dangers to others it will be said: but some risk must be run by the community, besides there is generally something to warn; here there was the quarrel and desire of revenge which would not apply to all and sundry. It shows the evil of a half and half state. A man is a man *on the whole*, we cannot separate him because he is doing or saying one thing at one time and another at another. We must form our opinion on the whole. No one would get angry or abuse a helpless drunkard—he is too much at our mercy; quarrels and anger are more apt to arise in the case of one who was but slightly affected if there was any attempt to take too much care of *him*. The same is true in the other case. This person was confined for fits he was liable to—complained of ill-treatment, and had quarrels, but was said by medical men to be "quite rational."¹ But what justifies his punishment condemns his detention. It is also like punishing twice—confinement for life is sometimes thought sufficient punishment itself. Some diseases no doubt are troublesome, but that is no reason for illegally *depriving a person of liberty*. This did not pretend to be a case of voluntary detention; and it is not said that the fits involved any *danger* to others, which might, of course, have made a difference. It is to be supposed that most cases are quite voluntary; it would be at least easy to tell whether they are or not, but this is never stated. All cases of bad health are voluntary, though it is well known that often a person requires to be seriously advised by his medical man before he will voluntarily lay himself up.

We can see at once this line of distinction. If at a first glance

¹ Week. Her., 18th Dec., 1875.

we were mistaken we have only to look again. It is self-evident. If it is not, and if long examination is required, that itself is proof that there is nothing we need take such extreme and decided steps for, or make so entire a separation. It is as if we were told a packet contained powder and might explode, when all at once we put it away in a place of safety. If told afterwards, and shown that it is not powder, we feel reassured again. We have an instance of something of this kind in an officer, a passenger on shipboard, who continually asserted that the food was poisoned, alarming all the passengers. He was put ashore as insane, and afterwards in another vessel killed the steward.¹ Some things might be capable of explanation when noticed, as if in this instance it could have been explained that he had really met something unusual in the taste of the food, but then the complaint was constantly and unreasonably made. It turned out that his health had been affected by sun-stroke. As far as his mere health was concerned the public had nothing to do, even though there might have been nice questions upon accurate examinations;—that would have been a half and half state of things;—it was the danger involved and seen at once, so that none could rest at ease. Another case shows that there is always undoubted facts to go on; and also the danger of slighting these; which is not to be confounded with respecting liberty;—a woman, after the loss of her husband, expressed several times apprehensions of her children being starved, though they were well off; she also bought a revolver, then changed it for another; all of which should have attracted attention and led to interference. At last she killed two of her children and herself.² Something might be said of malicious accusations, though of course there should always be something definite to go upon; these, like libels, should be severely punished, for it is often easier to raise a false alarm than to allay it, or to undo the injury they might cause to anyone. None need be afraid of the legal consequences, for it is only when the case is self-evident that such interference, whether by speech in telling others, or by action in doing something ourselves, would be required.

¹ Report of Commiss., 1869.

² Newspapers, end of Sept., 1876.

in one direction, when at all times, and in all places, there is the same unfairness. This in a great measure arises from ignorance or not thinking of the right rule. Nothing can be done, then, till we fix what the law actually is. In the more obscure fundamental considerations, singly often apparently trifling, here alluded to, what the law is is too apt to be lost sight of; but there cannot be a proper understanding, or justice got, where one party thinks he has rights which others do not admit, or when he acts on that supposition. Whichever way a thing is going to be taken, whether a person is going to yield his rights or not, first it should be understood *what* they are. This should be known and acknowledged for certain. There are, besides, degrees of wrong and unfairness which are likely to be far greater when wrong-doers are only partly conscious of it. The injustice of ignorance, though it may be less immoral, is often far more serious to those who suffer by it than that of knowledge. It may be even difficult to act up to exact law—to be perfect; there may be even no great harm in making exceptions and acting otherwise when compensating circumstances are attended to, but for this the exact law must be known first.

"*Justitia sine prudentia plurimum poterit; sine justitia nihil valebit prudentia.*" (Justice without prudence may avail much; without justice prudence will avail nothing.)—*Cicero*.

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are meaning what is earnest or serious, others may be meaning nothing or in jest.

To this sameness and equality, however, there are limits, and like other things, these are apt to be overstepped, and thus other wrongs to spring up. There is a fondness for regularity, order, routine, that interferes with freedom when these are carried beyond their proper place. Thus in professions we may expect more of equality and sameness than we have any right to expect beyond them, a certain measure of talent and understanding too ; but beyond this there is the wide field of civil life, where a freer scope should be allowed. To get this allowed is a difficulty, because most men and those who have most influence are more or less professional, and the natural tendency is to extend too high a standard of civil life ; and social life is apt to favour the same thing. It is the hard line of law, however, that should make the proper rule, and this should not be confined to such extreme cases as occasionally come to light and are tried at law. There is more of doubt and uncertainty in this outer field, and we ought to restrain ourselves, and, whatever our doubts or suspicions even, wait till there is something distinct before we interfere with freedom. This we may call the price we pay for freedom, and we cannot tamper with it without destroying freedom. A little wrong here spoils the whole.

Right and wrong have often the same outward appearance ; we must wait and see. This may seem to contradict what has been said of a distinct line that we may easily see, but it does not ; for the line is made by something said or done. The unfairness consists in supposing any can know without these. No doubt all are at all times judging and forming opinions from mere appearances, but this should only be mere opinion, within limits, not certain, and ready to be changed at once as any other appearance may strike us, or as we come to know better ; to judge for certain by mere appearances is unfair, that is to judge so as to alter our conduct and lead to acts. Men can pretend and act so as to deceive us. Even in social life impositions are sometimes practised without being detected ; intemperance also may be feigned ; so that it is impossible to tell for certain without actual facts. Freedom itself consists very much in thus not being judged

An eminent Sheriff, in deciding a case, said, "He had always had great reluctance to grant warrants, which may, and often do, amount to imprisonment for life on the mere opinion of two gentlemen, who, however respectable, may be very young, and who may never have made mental science an object of practical study. He has often been startled with the vague expression of the grounds of the opinion of unsoundness, such as, in one instance, when all the evidence was said to be that 'the man does not speak common sense.'"¹ Nothing is more inimicable to liberty than *vagueness*. And on this very subject it has been complained that "the principle of legal interference has never been laid down in terms," and proposed that "the law should step in and restrain, only when any exceptional conduct is such as would bring him under the penal grasp of the law—in other words, when it would lead to crime" . . . "excluding merely actionable aberrations."² This gives a distinct rule and limit, and others have proposed the same. It might be added it is all that is necessary, for anything actionable would lead to explanations, and throw light on anything else, if there was such. Thus there was a doubtful case of a person knocking at doors, etc., etc., but, as is a common case, light was thrown on the whole subject. We forgot how it was decided, but suppose the party would have to pay for the damage and give security for the future.

Some doubts appear as to whether the distinct line of danger is the law or not. In a celebrated case in 1849, the Chief Baron said to the Commissioners, "It is my opinion that you ought to liberate every person who is not dangerous to himself and others." But the Commissioners said, "There are dangers when there are insane delusions, though nothing may have been done." This, however, was probably meant to be included, at least in some cases. It is to admit an important principle at least, though there might be differences of opinion as to its limits. The law, however, was said to be for others besides the dangerous (s. 9, v. 100, 126). The Baron considered all erratic delusions in religion as independent matters of opinion—"being safe and harmless on every other topic." At that time what was necessary was a certificate from nearest relatives with nature of the case,

¹ Sheriff Barclay, in Jour. Juris., April 1874. ² Tangled Talk, p. 82.

there might be for this and other matters of a like kind will be subsequently considered.

The necessity of being thus particular may be admitted when we think of the variety of opinions among men on the same subjects, the number of unreasonable things that are done, the number of apparently foolish things that turn out right, the opposition that has often been made to the best things, whether in the shape of new inventions and discoveries, or new truths and opinions. Some things more than others are apt to be thus treated, and often good things, rather than bad. Men are so prone to evil that bad things are apt to be thought more reasonable than good, or even indifferent things. New opinions in religion, morals, and cleverness and talent itself, are apt to be thus classed. In the middle ages discoveries in the sciences even were attributed to anything but right reason. There is the saying that great wit is allied to madness ; but this has been controverted, and it is not likely that opposite things should be the same, though, as already said there may be some outward resemblances.—“It would be at least as true, that great genius is most alien from madness, yea, divided from it by an impassable mountain—namely, the activity of thought and vivacity of accumulative memory.”¹ It might be said that anything really clever, and not merely cunning, was a proof that, even though there was anything besides, it was only a mere variety—or among those things always liable to be told of people, and which distinguish one man from another, and those who have talent or genius are most apt to be thus distinguished. All sayings and doings are liable to be spoken about and judged, and thus kept within bounds the same as fashions, etiquette, politeness, vulgarity, by customary rules, proprieties, etc. ; if this is not enough, then there might be fines or penalties for anything amiss, or if anything worse still, then the law comes in the usual way. If some were making too free, new rules might be needed. If any person pretended health or drunkenness, he should be punished in the same way as for any other offence, but this should not be made a reason for anything else. The same applies to this as to ordinary health ; if a person is able, through the course of years, to accomplish a good deal of valuable work, that itself is

¹ Dryden, ap. Col. Tab. Talk, I.

to drive some people to do what they should not, than do any good. Everything should be more fair and open than usual, else, though we have not used force, we have done what amounts to the same thing; and what harmony can there here possibly be? Of course all that is here meant is as to anything *legal*, for at all times we are liable to get serious advice, admonitions, rebukes even, but these do not imply anything legal, that is the use of force, which is always implied in law.

We should not despise the wisdom of our fathers; they provided a jury of seventeen, and were jealous of liberty. No doubt they had their barbarous practices too, but we can easily distinguish. The right thing never changes by time; it might be the result of a dear-bought experience with them. It has indeed been said, We need never expect a state where there will be nothing to complain of; and this is more literally true than we are apt to think, for though old evils are abolished, they recur in another shape, it may be higher, not so literal, but still the same and literal too. Go over old lists and we shall find it hard to say of any, that nothing of that kind in any shape is done now. This subject is not likely to be one that we can put to rest once for all and be done with after providing laws and rules. It will always embrace the serious realities and exigencies of life—will be always recurring, and in various forms; and we should not trust it to mere honourable considerations. Thus the reviewer on the above cited case says, "No respectable people would do such a thing, requiring a conspiracy of three and four;" speaking of it as if it were to do some very distinct thing, such as to commit fraud, imposition, or forgery. But it is not that. The first signs the certificate; at the worst, it is an error of judgment. The second will be more apt just to follow, thinking that the first is more likely to be right than wrong, to say nothing of the trouble and moral courage required to disagree. These reasons are stronger for those who follow. The initial step would be most difficult, and form the best security. That the certificates are to be *separate* in a certain sense makes it worse, for otherwise two or three consulting together, one who saw the real truth clearer, or understood things better, than the others, would most probably bring them over to his views. Conspiracy, too, need not be any

CHAPTER VII.

FUNDAMENTAL PRINCIPLES AS TO LAW AND LIBERTY, ESPECIALLY AS REGARDS PERSONAL FREEDOM, WITH PRACTICAL EXAMPLES.

Various instances connected with liberty, domestic matters, etc., etc. Family matters. "Able to manage affairs." Trusts. Instance of trusts, property, and liberty. What makes a prison. Duty dictates no half-measures. Wit and pleasantry not to be entirely separated by themselves. Appearances of uncertainty in the law; instances. Danger of what is voluntary becoming something else. Other instances of mistakes, etc. Proposals for reform. All places should be equally free. Duties of relations and neighbours. How others are affected. Trials of life. Bad effect on morals and liberty. Still complaints everywhere. Further considerations and recent cases.

"Yet here at least an earnest sense
Of human right and weal is shown ;
A hate of tyranny intense,
And hearty in its vehemence,
As if my brother's pain and sorrows were my own.
—Whittier.

We shall now give some practical examples connected with the general subject treated of in the two previous chapters, though it may be said that the general principles have a bearing on analogous matters.

Various instances are constantly coming to light showing the working of the law. It is from these that most will form their opinions of what they have to count upon. We shall give some of them, and they will show running through them the mischief of a doubtful state of thing, and that a simple distinct rule would be best. They do not show very clearly what the law is as there seems various differences. *First*, as to voluntaryism. By 31, 32 V., sec. 9, a person may retire voluntarily, and depart when he chooses, unless it is certified to the sheriff that he is "dangerous to himself or others."¹ This is plain enough, but then, being mixed up with what is not voluntary, most cannot tell what is voluntary and what is not. Hence it has been said that it has been used as a refuge from creditors and from consequences of wrong-doing

¹ 1870.

that otherwise might arise.¹ This has been contradicted. It is, however, only as bearing on liberty we consider it. This leads to the consideration of families and instances where there may be concussion, over-persuasion, or deceit even, so that though not forced they are not purely voluntary. One instance comes out in a public trial. The party was told in reference to the management of his property that if he gave in to what was wanted he would get free.—The man of business said, “He understood that I was making application to get out of the Asylum, but I could not get out unless I invested my money.”—“If you do not now come to my way we will compel you.”—“He said that unless I agreed I would never get out of the Asylum.”—“He said that my wife could compel me to do it.”² He agreed and got out, and afterwards was sometimes in voluntarily and sometimes not. This shows how it may be worked. That this was connected with defrauding him of his property has no bearing whatever on the general question, as there may be all manner of motives for trying to get a person’s consent to what passes for quite voluntary. Here the party himself on another occasion, on finding his house in confusion, voluntarily returned.

In family matters especially there will always be plenty of motives though there be no fraud; and yet the public should see that no injustice is done even for the sake of taking too much care of property or person. Thus we find a coroner’s inquest on a father who was said to have died in consequence of being confined by his sons. But though the enquiry was said to be “proper,” the verdict was acquittal, five medical certificates being brought forward, though several persons did not think there was insanity.³ In another, a daughter sues her mother for causing her to be illegally confined. This was explained to have been for her own benefit and well intended, and was amicably settled, on its being shown that there was “no foundation for supposing” that the daughter required restraint.⁴ But of course all cases may not end so amicably, and there are other relationships where good intentions are not to be trusted so much. Another instance of a doubtful

¹ See Trial in Glasgow Weekly Herald, 10th January, 1876.

² Daily Review, 29th March, 1876.

³ Glas. Week. Her., 7th Aug., 1875.

⁴ Ibid, 26th June, 1875.

distinctly told. In general it is only a *very small part* of another we see, and it might be a very long time before we found out a most important fact regarding one whom we occasionally conversed with. It might be such as would make us say, "If I had known that before, I would not have spoken so confidentially," etc. Much more does the same apply when there is anything legal, regarding which there need be no delicacy of speaking. It may be added that it is so much the worse the giving of a wrong name here, as it can scarcely be corrected afterwards. The same suspicions will remain, and everything accounted for on the original supposition.

While there is thus a distinct line where there need be no mistakes—where separation should be made—where there can and should always be distinct telling—it is not meant that there is nothing like a gradation, that everything beyond this line is quite right; for there are great differences otherwise. Whatever name we give these various differences, they should be quite distinct from anything legal. That is to say ALL are entitled to equal treatment. We need not think that this is too much equality and sameness, for it does not put all on the same dead level as if there were no differences at all. Thus intemperance is an instance where liberty is not interfered with, though, of course, none will deny but that it goes such lengths as to give rise to questions. There are temperance refuges, etc., where there is a kind of voluntary restraint. But these, where there are real flagrant outward acts, are far beyond what we are considering. If in the former we respect liberty, much more should we where there is less to give rise to any excuse for interfering with that invaluable boon. When this is settled and agreed upon all the other differences must be treated each according to its own nature. They are analogous to the various degrees of intoxication perhaps, from the merest exhilaration of spirits to that degree where a person can scarcely manage himself. No doubt a person always falls within the laws when he cannot, from whatever cause, take care of himself, as when others have to carry him out of the way of danger. What may be the exact law in that case is a matter of detail so far, though the great laws of humanity that are always applicable, of course, come in. There are bad health, accidents, carelessness, besides intoxication, that might

give rise to such cases. We should have something else to do than merely *take advantage* of them. We would not be entitled to deprive such persons of liberty, except they had broken some law for which they ought to be sent to prison. Those in prison we never suppose there without good cause, there is no mistake—anything else is an abuse, and would confound innocent and guilty; so here there must be something distinct and permanent before any difference is made, and this accompanied with the usual serious legal forms, as if we had permanently to take care of the property of an intoxicated person, for this would be crossing over that distinct line alluded to, when we might be accused of theft and expose ourselves to serious consequences.

All these other differences then might be treated as mere cases of health *in the usual way*. Body and mind act on each other, and it is said the former is often wrong where the latter is blamed; and this favours such cases being treated in the usual way. It is to be said, too, that apprehension of approaching illness is no reason—it rather proves that the person is still well. In some cases it might tend rather to bring it on prematurely so to treat it, especially if everything was not done with the entire good will of the party. The strict line of the law is of the utmost importance; and that is, we must wait till a person is distinctly unwell *first*, as much as we must wait till some wrong has been actually committed, before we take legal steps. And even for the sake of these precautions which may be of importance, there should be nothing to give rise to suspicions that anything else but what was quite voluntary was meant, for that would only repel any from having recourse to advice or precautions beforehand. Every man knows best himself whether he has done anything why he should be put in prison, and it is the same way here—it is *serious to treat unjustly conscious innocence*. Of course, it is the *distinctness of the line* only that is meant. We don't think all out of prison innocent, yet it would be unjust to put them in it. There are all varieties and degrees both of guilt and health. There are hospitals, refuges, temperance homes, and places even where those conscious of their weakness may submit themselves to voluntary restraint. We would not like our prisons treated that way, so that none could tell whether anyone confined in

interfere with personal freedom. No man has a right to sell even himself into voluntary slavery; and on the same principle, none has the right to do, however voluntarily, what amounts to something analogous, such as parting with his personal property and with it his perfect freedom; for none can be considered free who has absolutely nothing, who has to ask and receive from others food, clothing, and shelter. It has not even the freedom that absolute beggary has, for there are *only certain parties* from whom he is entitled to receive, and it is on them he depends, not on the charity of an impartial and disinterested public. If we suggest that there are Poor Laws, these too are framed impartially, without respect of persons, and do not attempt in any way to interfere with freedom of opinion, or with anything but that same amount of freedom which everyone is liable to part with when he hires his services to others. Personal property in the proper sense is what one *carries on his person*, as in travelling; without it a person could no more move than a child away from its nurse; a boy might spend a day, but starvation would drive him to ask from those on whom he depended. That men are sometimes reduced to starvation does not interfere with their freedom, though they may have to make a harder bargain for their services. When this state is taken advantage of, it is by getting them into debt, as we find instances of in history. It is the wrong of *usury*, and is often unlawful, for wages for livelihood should never be kept back: nor accounts run beyond the day or week. Mere subsistence, or what we may call personal property, being always reckoned different from property that is traded with, or held as capital, even a bankrupt is allowed his personal expenses. To form trusts for the better and more accurate management of things is part of our rights and liberties, but, like everything else, may be pushed to an improper extreme, and then becomes a cause of evil as may be easily supposed. Like some other things they are best kept in check by seeing that their opposites have perfect freedom; that is, that those who have no trusts obtain all their rights; then trusts would not be made when not required, and there would be less need of excuses for them on all occasions. We do not remember exactly what was alluded to, but an old writer in the beginning of the 17th century, says, that if the

he was not so bad but he knew he was doing wrong. Why was he there, we might ask? It might be only justifiable homicide, for what right has one in the most galling and insulting way to deprive another of liberty. No doubt religion teaches that all injuries should be taken patiently, but except for a good distinct cause no man should be deprived of liberty—"hopeless confinement for life," of the most degrading kind, at the mercy of arbitrary power, is about the worst evil that could befall a person. If a person has to answer with their life for what they do they should have a fair chance. There would have been dangers to others it will be said: but some risk must be run by the community, besides there is generally something to warn; here there was the quarrel and desire of revenge which would not apply to all and sundry. It shows the evil of a half and half state. A man is a man *on the whole*, we cannot separate him because he is doing or saying one thing at one time and another at another. We must form our opinion on the whole. No one would get angry or abuse a helpless drunkard—he is too much at our mercy; quarrels and anger are more apt to arise in the case of one who was but slightly affected if there was any attempt to take too much care of *him*. The same is true in the other case. This person was confined for fits he was liable to—complained of ill-treatment, and had quarrels, but was said by medical men to be "quite rational."¹ But what justifies his punishment condemns his detention. It is also like punishing twice—confinement for life is sometimes thought sufficient punishment itself. Some diseases no doubt are troublesome, but that is no reason for illegally depriving a person of liberty. This did not pretend to be a case of voluntary detention; and it is not said that the fits involved any danger to others, which might, of course, have made a difference. It is to be supposed that most cases are quite voluntary; it would be at least easy to tell whether they are or not, but this is never stated. All cases of bad health are voluntary, though it is well known that often a person requires to be seriously advised by his medical man before he will voluntarily lay himself up.

We can see at once this line of distinction. If at a first glance

¹ Week. Her., 18th Dec., 1875.

we were mistaken we have only to look again. It is self-evident. If it is not, and if long examination is required, that itself is proof that there is nothing we need take such extreme and decided steps for, or make so entire a separation. It is as if we were told a packet contained powder and might explode, when all at once we put it away in a place of safety. If told afterwards, and shown that it is not powder, we feel reassured again. We have an instance of something of this kind in an officer, a passenger on shipboard, who continually asserted that the food was poisoned, alarming all the passengers. He was put ashore as insane, and afterwards in another vessel killed the steward.¹ Some things might be capable of explanation when noticed, as if in this instance it could have been explained that he had really met something unusual in the taste of the food, but then the complaint was constantly and unreasonably made. It turned out that his health had been affected by sun-stroke. As far as his mere health was concerned the public had nothing to do, even though there might have been nice questions upon accurate examinations;—that would have been a half and half state of things;—it was the danger involved and seen at once, so that none could rest at ease. Another case shows that there is always undoubted facts to go on; and also the danger of slighting these; which is not to be confounded with respecting liberty;—a woman, after the loss of her husband, expressed several times apprehensions of her children being starved, though they were well off; she also bought a revolver, then changed it for another; all of which should have attracted attention and led to interference. At last she killed two of her children and herself.² Something might be said of malicious accusations, though of course there should always be something definite to go upon; these, like libels, should be severely punished, for it is often easier to raise a false alarm than to allay it, or to undo the injury they might cause to anyone. None need be afraid of the legal consequences, for it is only when the case is self-evident that such interference, whether by speech in telling others, or by action in doing something ourselves, would be required.

¹ Report of Commiss., 1869.

² Newspapers. end of Sept., 1876.

There is a necessity for a certain degree of sameness and equality, if we are to take things in common. All need not be exactly the same and equal, but there is a distinct limit where differences must stop. If, on a journey, all agreed to put their different sums of money into one common stock, from which all were to be equally supplied with food, clothing, etc.; it would obviously be very unfair for anyone to keep anything back, so as privately to supply himself, or to be in anyway different from the rest. Men wont contend together for any object without this fair, equal dealing. In war all are ready to take an equal chance—all are armed so as to be prepared to meet the foe; everything is in good faith, none mock-armed, ready to surrender to the enemy at the very outset. Only those who can fight in earnest, even though but feebly, are expected to accompany them; others would hinder them, or do worse, by preventing them knowing whom to trust. The same is true of many other societies, where all are expected to be equal; that is, equal, so far as the particular thing requires or implies. In clubs and social parties all treat each other as equals. To say that there was a prisoner present—if we could suppose such a thing—would sow suspicion, spoil the harmony, and utterly break up the party. To have freedom there must be no such differences. It is the same in an analogous manner in the wider sphere of civil life. True, we don't expect the exact same kind of equality as in select clubs, social parties, etc.; but still all are supposed to be free and on the same footing. Any advantage one has, another equally has; the law is equally over all; no respect of persons or differences made. None can move freely about without this. What a person does with the utmost freedom, not thinking of others or of *their* interests, but his own, depends on this. This is not selfishness, but freedom. Always to have to be thinking of others at every step one takes, how it affects them, or perhaps how it may seriously injure ourselves, hampers us and destroys that fair, equal, manly intercourse, whether of social or civil kind, which takes place among equals, where within certain and well-known limits all are supposed to have the same chances. The other is like walking in the dark, where we must take care not to injure anything. It has nothing staid and fixed to which we can trust; it wants as it were the turning points; while some

are meaning what is earnest or serious, others may be meaning nothing or in jest.

To this sameness and equality, however, there are limits, and like other things, these are apt to be overstepped, and thus other wrongs to spring up. There is a fondness for regularity, order, routine, that interferes with freedom when these are carried beyond their proper place. Thus in professions we may expect more of equality and sameness than we have any right to expect beyond them, a certain measure of talent and understanding too ; but beyond this there is the wide field of civil life, where a freer scope should be allowed. To get this allowed is a difficulty, because most men and those who have most influence are more or less professional, and the natural tendency is to extend too high a standard of civil life ; and social life is apt to favour the same thing. It is the hard line of law, however, that should make the proper rule, and this should not be confined to such extreme cases as occasionally come to light and are tried at law. There is more of doubt and uncertainty in this outer field, and we ought to restrain ourselves, and, whatever our doubts or suspicions even, wait till there is something distinct before we interfere with freedom. This we may call the price we pay for freedom, and we cannot tamper with it without destroying freedom. A little wrong here spoils the whole.

Right and wrong have often the same outward appearance ; we must wait and see. This may seem to contradict what has been said of a distinct line that we may easily see, but it does not ; for the line is made by something said or done. The unfairness consists in supposing any can know without these. No doubt all are at all times judging and forming opinions from mere appearances, but this should only be mere opinion, within limits, not certain, and ready to be changed at once as any other appearance may strike us, or as we come to know better ; to judge for certain by mere appearances is unfair, that is to judge so as to alter our conduct and lead to acts. Men can pretend and act so as to deceive us. Even in social life impositions are sometimes practised without being detected ; intemperance also may be feigned ; so that it is impossible to tell for certain without actual facts. Freedom itself consists very much in thus not being judged.

in doubtful circumstances ; it resembles a rider whom we see careering along and are in ignorance whether he has his horse under control or not. Men often act unreasonably, but this is not always a reason for interfering with them ; it is not every degree of unreason that is enough, it must amount to something distinct. The carelessness of a person acting freely, without thinking particularly what he is doing, is quite the same as one who has a distinct purpose and intention ; we cannot interfere with the one without interfering with the other. Mere natural impulses are the same as those accompanied with intention. They resemble the good and bad seed that we cannot distinguish till they have grown up. It is like ordinary health : we suppose a person well enough or he would not be able to go about ; though from outward appearances we can form a general opinion of the strength and health of those whom we meet ; the rest is a secret that we cannot know.

Here it may be said that we can be told, and that is true ; and hence arises the importance of TELLING. This is of the more importance in proportion as the distinct line is not observed. And though, of course, we see distinct acts, still these may not always be seen, and yet if they have been there and make the case, others ought to be told by those who already know —and this is different from our forming opinions on mere appearances. If the fact is there we can and should be told, and those who should ought to suffer the penalty for not doing so. It is the disagreeable and sometimes dangerous part of the matter, and to warn others is the least that can be done, seeing it is difficult for a person to know by appearances. Like the case of the officer alluded to, some might not happen to know that he was in the habit of speaking of all the food being poisoned. At the same time we must not, as it were, try to give rise to oversecurity by saying anything without there being *distinct facts to go on*. Damages, as already said, should help to secure this. It may be added that another reason for telling, and what makes the difficulty of judging still more difficult, is that *anyone* may be told to do things, put up to them, and they pass for his own. This may give the weak an advantage over the stronger, and therefore it is doubly unfair there should be anything else. The remedies that

there might be for this and other matters of a like kind will be subsequently considered.

The necessity of being thus particular may be admitted when we think of the variety of opinions among men on the same subjects, the number of unreasonable things that are done, the number of apparently foolish things that turn out right, the opposition that has often been made to the best things, whether in the shape of new inventions and discoveries, or new truths and opinions. Some things more than others are apt to be thus treated, and often good things, rather than bad. Men are so prone to evil that bad things are apt to be thought more reasonable than good, or even indifferent things. New opinions in religion, morals, and cleverness and talent itself, are apt to be thus classed. In the middle ages discoveries in the sciences even were attributed to anything but right reason. There is the saying that great wit is allied to madness ; but this has been controverted, and it is not likely that opposite things should be the same, though, as already said there may be some outward resemblances.—“It would be at least as true, that great genius is most alien from madness, yea, divided from it by an impassable mountain—namely, the activity of thought and vivacity of accumulative memory.”¹ It might be said that anything really clever, and not merely cunning, was a proof that, even though there was anything besides, it was only a mere variety—or among those things always liable to be told of people, and which distinguish one man from another, and those who have talent or genius are most apt to be thus distinguished. All sayings and doings are liable to be spoken about and judged, and thus kept within bounds the same as fashions, etiquette, politeness, vulgarity, by customary rules, proprieties, etc. ; if this is not enough, then there might be fines or penalties for anything amiss, or if anything worse still, then the law comes in the usual way. If some were making too free, new rules might be needed. If any person pretended health or drunkenness, he should be punished in the same way as for any other offence, but this should not be made a reason for anything else. The same applies to this as to ordinary health ; if a person is able, through the course of years, to accomplish a good deal of valuable work, that itself is

¹ Dryden, ap. Col. Tab. Talk, I.

proof that he should be classed among those in health. It is as if those making great exertions in one direction had a corresponding weakness in another, or those intent on one subject neglected others. It is always to be remembered, however, that there is a distinct limit, or it becomes something different—like unfair warfare or striving, or a person not amenable to the usual reasonable rules common to all, but claiming some unfair advantage, or at all events what disturbs the usual order, causes confusion, and incommodes others. It is something said or done that makes this line, and no reason, therefore, why it should not be told and known, as a distinct legal fact.

The evil of not allowing room for a great variety of opinions and differences of conduct is, that a dull uniformity and sameness may be produced, favouring a stupid, stolid indifference and insipidity of mere routine and ceremony, as if life consisted of nothing else than that and eating and drinking. It is recommended, also, by giving least trouble, and being regular and quiet. It puts a stop to reasoning and discussion, and only what is usual and common passes current. It favours material things at the expense of spiritual. Variety of opinions, new things, new proposals are apt to be more troublesome. Delusions, no doubt, may sometimes attend them, as we can scarcely expect every new proposal to turn out successfully. But “never venture never win.” We must take the risk of failures, if we do not want to put a stop to all progress, or indeed to put down all animation. The very word delusion is of doubtful meaning. Almost everything not tangible might be called that by some one or another. In religion people are apt to consider one another’s opinions that when they differ. We really cannot tell as to any opinion how far it is spiritual, or how far it is susceptible of being explained. To treat every new thing as a delusion is directly to attack freedom by throwing cold water upon it by misrepresentation and ridicule, but not to meet it with fair argument. History gives us instances of this. But it is obscure every-day life we deal with; and there it is very unfair that there should be any wrong rule of judging; matters of opinion should be met by reasoning only.

“I see destruction is at hand to that state, in which the law is ruled over, and is powerless.”—*Plato, Laws, 4. 7.*

But to return to—What is the line at present? We hear complaints of its being too easily crossed. Thus one writing to the papers says—“The notoriously too easily procured certificates” at “two guineas each” for the two necessary papers is a cause of pauperism also. The writer says “unsound mind” should not be enough, that “dangerous” should be the line.¹ We noticed what the constitution required—a jury of seventeen. This is a great change. In France there is said to be first a “public examination” before a court of magistrates.² But here again, to judge from a statement of a medical man in a case in the newspapers, two medical certificates are enough.³ In one case, however, which was for the extradition of a lunatic, there was a jury who very properly insisted on the production of the original certificate. We saw, too, that here *in some cases* the Sheriff examines. But then how are the public to know, when judging from such cases as are reported in the newspapers, there appears, apparently at least, inconsistent statements; and it is only thus most people will form their opinions. And it should not be forgot that it is not for the most flagrant cases that precautions are required. It is as if the line of distinction between voluntary and enforced had got confused. Such **VERY DIFFERENT THINGS** should be kept quite distinct. This is implied in all already said. That the two kind of states may border, or even melt into another, is no reason, but rather the reverse, just because mistakes are most apt to be made, and confusion and every evil work to arise. If there is no danger, there is no proper reason for force, and if there is, it should not be trifled with. And yet, from some instances occurring, we might suppose the latter sometimes the case, notwithstanding the often contrary kind of complaints. One extreme, however, sometimes leads to another, so that going too far and crossing the line in many cases does not prevent, or perhaps rather leads to, the neglect of cases where there need be no doubt, as often appears from what is told *after* something serious has happened. We should be as particular not to neglect undoubted facts as indications as we should be to resent unlawful

¹ Lett. in Glas. D. Mail, 13th June, 1876.

² Do., do.

³ Glas. D. Mail, 30th Sept., 1876.

that otherwise might arise.¹ This has been contradicted. It is, however, only as bearing on liberty we consider it. This leads to the consideration of families and instances where there may be concussion, over-persuasion, or deceit even, so that though not forced they are not purely voluntary. One instance comes out in a public trial. The party was told in reference to the management of his property that if he gave in to what was wanted he would get free.—The man of business said, “He understood that I was making application to get out of the Asylum, but I could not get out unless I invested my money.”—“If you do not now come to my way we will compel you.”—“He said that unless I agreed I would never get out of the Asylum.”—“He said that my wife could compel me to do it.”² He agreed and got out, and afterwards was sometimes in voluntarily and sometimes not. This shows how it may be worked. That this was connected with defrauding him of his property has no bearing whatever on the general question, as there may be all manner of motives for trying to get a person’s consent to what passes for quite voluntary. Here the party himself on another occasion, on finding his house in confusion, voluntarily returned.

In family matters especially there will always be plenty of motives though there be no fraud; and yet the public should see that no injustice is done even for the sake of taking too much care of property or person. Thus we find a coroner’s inquest on a father who was said to have died in consequence of being confined by his sons. But though the enquiry was said to be “proper,” the verdict was acquittal, five medical certificates being brought forward, though several persons did not think there was insanity.³ In another, a daughter sues her mother for causing her to be illegally confined. This was explained to have been for her own benefit and well intended, and was amicably settled, on its being shown that there was “no foundation for supposing” that the daughter required restraint.⁴ But of course all cases may not end so amicably, and there are other relationships where good intentions are not to be trusted so much. Another instance of a doubtful

¹ See Trial in Glasgow Weekly Herald, 10th January, 1876.

² Daily Review, 29th March, 1876.

³ Glas. Week. Her., 7th Aug., 1875.

⁴ Ibid, 26th June, 1875.

stood. Has a person this right to sell himself into slavery ? If it is real, even for a short time, it is not voluntary during that time. There are instances of people committing offences to get themselves put in prison, but they are none the less prisoners when there. We suppose, however, what is meant is, that they may depart *when they choose*. Then that is not restraint at all. That, then, and all connected with it should be kept *quite distinct* from force. We certainly do approach the limits, however, when we come to those "at times dangerous to themselves and others" from drink. Recent acts provide that such may voluntarily allow themselves to be confined for a time, but not longer than one year, in houses licensed and inspected for the purpose, two justices and two other persons joining in their application, certifying that they are such persons as the Act intends ; or such persons may be confined by order of the justices. An additional regulation, however, is against that complete separation that ought to be—that single parties may undertake "the care of" such ; which is just an inlet to all the evils and causes of corruption complained of. It might be added that, as all these regulations implied going into particulars and expenses, and as the cause of all is the party getting *too much*, why could he not get just the proper quantity from one place or person, and those who gave more be punished. It would be like a druggist selling poison, answerable for selling too much without some good reason given or known. This would have the advantage of being like other civil or medical cases.

While this is what may be said on the important point of voluntary confinement, on the whole subject we may still further reflect upon the many things which all tend in this same direction, to limit the liberty of those more dependent than others. Some are independent of others, but many will always be to a great extent dependent, and yet they are entitled to their liberties as well as others, and it is what the public should see that they get. Some of the precautions have already been mentioned, and yet there have been at all times complaints, and still are. In short, it is, as has already been hinted, one of those things where *constant vigilance* will be required, and no fixed rules trusted. Those dependent may be concussed, cajoled, taken advantage of, their spirits broken ; they may them-

was after this he got married. Can persons not able to manage their own affairs get married? and what does that disqualify from? Is it the same as a certificate for confining? Of course, where it is done voluntarily there is no question. A person thinking of marriage might like to know these things before and not after.

"Not able to manage affairs" is a very wide phrase in one sense, but in another and simpler it implies that a person is *wholly disqualified*. Few *entirely manage their own affairs*. To mean anything distinct it would require to mean *wholly disqualified* legally. Thus why should a person, as in the above instance, have money in a bank and be allowed to use it for some purpose and not others. If legally he could not manage his own affairs there is no need of having money at all. It is no great inconvenience even, as a person can always easily get what he wants otherwise; and it prevents the mistakes, confusion, and ill-feeling that a half-and-half state of things is calculated to give rise to. In another instance we read that a captain, "being under trust, he was not in a position to sue"; he was wanting to get on the poor's roll to prosecute the authorities of a lunatic asylum for illegal detention.¹ "Being under trust" might imply not having the use of the capital of his money; but every freeman is always supposed to have a right to do whatever he lawfully can do. Any uncertain state mars it. Many things, such as poverty, bad health, etc., might prevent a person doing what he otherwise would, but these are no *legal* obstacles, which "being under trust" is here stated to be. In that way, though out of the asylum, he was as good as in it; but what the use of giving rise to the irritation, ill-feelings, and mistakes of a doubtful state. We are told that moral causes, such as "anxiety," "fear," etc., are the "most common of all causes," "by far," of illness, together with "domestic disagreements," etc., etc.² Now what more apt to cause or aggravate such a state as the suspicions from the want of a distinct, open, and certain rule to go by!

We are bound to take one another's part, and what opinion can be formed of the state of things by such intimations as these. Trusts are generally connected with inherited property, and never

¹ Daily Review, and Cour., 8th Nov., 1872.

² Rep. Com. Week. Rev., 5th March, 1864.

was "deliriously insensible with bilious fever."¹ The same party testified that many were sane; but to judge by mere appearances is not, perhaps, a fair test. It is well known that relations are not to be trusted, there being many instances of illegal ill-usage on their part. Thus a practising surgeon was found, not only illegally "receiving into his house without a license" his sister, but with "ill-treating her." He had received "considerable sums" from his father for "taking care of her" during two years. In short, *every* care is necessary against abuse, both on the one side and the other; for relatives are often a check on others. It might appear strange the number of complaints often met with; and when not contradicted it is only by them that most people can judge. Thus at two meetings in Glasgow and London, some doctors, ministers, lawyers, and a lady all declared that they knew of "several cases" of illegal detention.² No doubt false charges of that kind are apt to be made, as we find in an Edinburgh court, where some cases were even instanced, but on investigation were not found true; but this, perhaps, only shows the uncertainty that exists on the whole subject, leaving more room for real wrongs. More recently we find the case of a surgeon, who had several times escaped, at last obtaining his liberty by the verdict of a jury, but it cost him £1000. No doubt right and wrong are often mixed, but why should it cost so much, and require the verdict of a jury to get free?³ It is also a strong statement in the Report of Commission—that "any of these institutions under the existing law, and in the hands of a weak committee, might easily" "become"—an "establishment mainly for the resident staff," subject to "no control."⁴ It shows the need of constant vigilance and every precaution, for no fixed rules are enough once for all to settle it.

These meetings last mentioned were connected with proposals for reform. On this the proposals and suggestions made are a letter-box, as mentioned above, the right of free entry of relatives and friends at all times, accurate classification, and the abolition of all "private

¹ Lett, Glas. D. Mail, 14th June, 1876.

² See papers, 1874, 25th May and 19th March.

³ Daily Review, 5th July, 1879, and Glas. D. Her. 14th Nov., 1879.
Glas. D. Her., 29th Aug., 1879, Rep. Com. Lu., E. & W.

abuses connected with such matters had not been remedied, they were like to destroy all that was manly in the character of the nation. They should never interfere with personal and manly freedom. If *that* were always to be counted upon, there might be less jealousy as to other matters.

How trusts, property, and personal liberty, become mixed up we see in another instance in a will law-suit. The party was a widow left with a good deal of money. Her friends said, "that at his death she was incapable of understanding or transacting business for herself, and that her affairs were practically administered by the law agents in the trust." She, however, left secretly, and went to a different part of the country, where she employed a man of business, saying she had been ill-treated, deprived of her property, and so destitute as to have to borrow from the station-master to pay her ticket. She said she had no wish to return,—for she had been followed, and endeavoured to be persuaded to return,—and that she wished her address concealed. Her agents said the disposition of the property was afterwards prepared, "with the view of effectually protecting her" from "continued persecution."¹ They said she was in full possession of her mental faculties. With the particular merits we have nothing to do, except as the principles bear on the great subject of liberty. Here there was evidently uncertainty and insecurity; there was what was the same as deprivation of personal liberty; and yet, after taking a great deal of trouble, and doing what at all times it is very disagreeable to have to do, she found men of business who put her in possession of her property, and provided a home for her till her death. The other party, no doubt, said she was ill-treated there, too, but it was at least with her own freewill, as she left the parties her property. It was mixed up with intemperance, as is often the case. The will was set aside which she had made in favour of strangers, though it was admitted there was no fraud proved.

We have here all the evils of a doubtful state. Why, as it were, put a party to the disagreeable trouble of doing what was here done to find out whether they are their own masters or not. Curiosity almost, if nothing else, might lead to it, to know what

¹ Newspapers, 18th Jan., 1873.

the use of *anything at all*, if there is harmlessness? We cannot, however, have anything really half-and-half, or that goes *a short way*. Let there be nothing at all, the same as every other house; no excuse from the presence of even one, that any one place may be different from another in respect of law, equality, and liberty. Who can know *the degree* of supervision? If there is anything at all, it is the same to others as everything. Nothing is more inimical to true freedom than indefiniteness. It is amid uncertainty and doubt that evil has most room to work, and where those who would do right can do least. Confusion and every evil work are allied.

It will be said relations are not to be trusted. And it is true risks must be run, take it as we will, for there are complaints without them; so that it remains much the same on that account. There is a very important matter connected with that, however; for, if we lay the duty and responsibility on *others*, we will think ourselves free. Let us all be equal and free and share alike, and we will feel bound to assist one another, but that wont be so long as we think some have extra help to which to look. If all chance of that is excluded, it is a mere Christian duty and reciprocal obligation to assist one another, and see no injustice is done. All are amenable to public opinion, and to admonitions more or less private, such as might occur in course of business intercourse, clubs, churches, etc. If a person does what is dis-honourable merely, he is marked. Why should any person do such a thing as illtreat his sister for years and nothing be said?¹ One reason is that it is handed over as belonging to other authorities. It is thus made a door and an excuse, or thought a good reason for not meddling with or thinking of what on the face of it would not be agreeable. Everything depends on the jealous exclusion of everything extraneous. Neighbours should have something more to say than "You must not come here." "What do you complain of?" should be a fair question, to be disposed of in the usual civil or social way; there is something or nothing. Easy, of course, to fancy difficult cases; but it is not to be supposed that any would be willing to injure themselves in public opinion, whether in business, club, social meetings, or church, all wish to stand well with these and with their neighbours too. But

¹ See case noticed above.

give rise to a state of war, and destroy the confidence that might spring from open and fair dealing, more or less than usual being required. Better too, as has been said, when anything that implies force is necessary that it should come from other parties; and as these in such a case are always called in sooner or later, it is as well to make that the turning point. It brings in witnesses too, instead of that most disagreeable state of things where the usual harmonious order of things being gone, war as it were having broken out, there are yet none to witness what is done among parties interested and probably irritated towards one another. And again, it may be said, none can tell by mere appearance *what it really is*, unless they are distinctly told in a way that makes it legal. This makes the distinct line. Quarrels and violent or unlawful language, when none can tell what they are caused by, often imply something legal, and therefore that should be explained. Thus in this last case there should have been one thing or another. Yet there was only half-measures. Nothing should be done among friends, which cannot be done among strangers. Let suasion and advice keep strictly to their own place, and anything legal, which implies of course the use of force if needed, be kept as strictly to its; they are quite heterogeneous and will never mix, while the former is very easily injured by even the slightest indications of the latter. They are separated by a broad line; why not observe it? There may be railing and jesting even, but all that is spoilt when there is no confidence that this line will never be transgressed without plain and distinct intimation.

There cannot be jesting, or even peace of mind, when what we might call jesting is liable at any moment, or capriciously, to be turned into grim earnest. The freedom implied in it has vanished and something too serious taken its place. The real salt in wit and pleasantry is gone, *both* when there is nothing serious and when too much. The medium we will find in the fair lawfⁿl state of things. Serious things are apt to have their lighter or ludicrous aspects too, but things with nothing whatever serious are not what some can enjoy, they are too much of one kind. In short, the two should go together; and this implies that nothing but what is usual is meant—the usual serious order of things with

of others. It is as if we were to put a person in health in place of the sick and sick in place of the healthy. The meagre diet and treatment of the former would neither suit nor be agreeable to the latter especially over any length of time. Yet, of course, it might be made to do, and such an injustice might be committed. Best when there is nothing to tell. We saw in the case of ordinary health, especially if it were an infectious disease, that it would be proper to mention it to a caller, and the same should be done where there is anything legal, for that is a matter of fact; if there is not, there is or should be nothing else, and nothing said of course. A very great many might be affected by an unfair state of matters. It is as if the sick had an unfair advantage over those in health; and therefore is not what any would be apt to complain of. It would naturally affect most those not in the strongest health, but who yet might be far from liking being placed on a sick list; they are most desirous of a just and equal state of things where there are no differences but those well known ones which we cannot be without, such as age, talents, experience. Those also who, from their circumstances or choice, are less tied to regularity, to the more strict rules of society, and therefore are entitled to greater freedom, are affected by it. Any unjust or unfair abridgment of liberty does no good in the long run; it often just gives rise to some underhand or improper mode of getting it, or else it is only the weak or those best inclined to law and order who suffer.

This subject is connected with the trials of life. These of course ought to be borne when they come. Some, when they exceed a certain limit, we may be able to get quit off, but others are to be borne with. Anything that interferes with the fair limits is a cause of great evil by leading people to try to get rid of what they should bear up with. Health in all shapes is one thing. That one individual or family should have good health, and another bad, is not what can be complained of. The only way to get a blessing from the latter is cheerfully to bear up against it.

What though corroding and multiplied sorrows,
Legion-like darken this planet of ours;
Glory rewards the fulfilment of duty;
Rest will pavilion the end of our way.¹

¹ See *wiss.*

irony or humour. It is no good sign to insist on too much of the same uniform gravity, and it is as bad, or worse, to turn everything into ridicule; like him

“Whose morbid brain is always running
On jokes, where none are meant to be,
And violent attempts at punning”—

both equally attended with that want of discernment which their mixture implies, and which forms the proper and best exercise of the mind. We ought, then, though it has a seeming rightness, and saves trouble, to resist a natural tendency to separate them. That we are all to be equal is the only thing we should insist on. But it is probably the dread of everything being turned into ridicule, of there being nothing but unmixed jesting, that leads some to take offence at and refrain from the slightest approach to pleasantry. Wit—

“ ‘Tis precious as the vehicle of sense;
But as its substitute, a dire disease.”¹

Folly is called the mother of all evils—*omnium malorum stultitia est mater*; but it is only worst when it is unmixed folly. We are told to join “trembling with our mirth,” and to have salt with our speech, the very opposite of any separation, and implying that we need not disjoin altogether mirth from what is serious. Things are so allied indeed that we cannot properly do so, but will be apt to find ourselves making light of what should be serious, and teaching those at all times too much inclined to lightness to be still more so, in fact depriving them of all opportunity of learning better. A serious turn may be given to almost everything, but this implies that there is room left for it, and not that it is entirely excluded by a prior understanding or rule that nothing whatever serious is ever intended, in which case gradual amendment is hopeless.—“Learn from the earliest days to insure your principles against the perils of ridicule. You can no more exercise your reason if you live in the constant dread of laughter, than you can enjoy your life if you are in the constant terror of death.”²

¹ Young's Night Thoughts, 8.

² Sidney Smith's Lect. on Mor. Phil., p. 134; ap. Rogers' Essays, v. iii., p. 214.

But to return to—What is the line at present? We hear complaints of its being too easily crossed. Thus one writing to the papers says—“The notoriously too easily procured certificates” at “two guineas each” for the two necessary papers is a cause of pauperism also. The writer says “unsound mind” should not be enough, that “dangerous” should be the line.¹ We noticed what the constitution required—a jury of seventeen. This is a great change. In France there is said to be first a “public examination” before a court of magistrates.² But here again, to judge from a statement of a medical man in a case in the newspapers, two medical certificates are enough.³ In one case, however, which was for the extradition of a lunatic, there was a jury who very properly insisted on the production of the original certificate. We saw, too, that here *in some cases* the Sheriff examines. But then how are the public to know, when judging from such cases as are reported in the newspapers, there appears, apparently at least, inconsistent statements; and it is only thus most people will form their opinions. And it should not be forgot that it is not for the most flagrant cases that precautions are required. It is as if the line of distinction between voluntary and enforced had got confused. Such **VERY DIFFERENT THINGS** should be kept quite distinct. This is implied in all already said. That the two kind of states may border, or even melt into another, is no reason, but rather the reverse, just because mistakes are most apt to be made, and confusion and every evil work to arise. If there is no danger, there is no proper reason for force, and if there is, it should not be trifled with. And yet, from some instances occurring, we might suppose the latter sometimes the case, notwithstanding the often contrary kind of complaints. One extreme, however, sometimes leads to another, so that going too far and crossing the line in many cases does not prevent, or perhaps rather leads to, the neglect of cases where there need be no doubt, as often appears from what is told *after* something serious has happened. We should be as particular not to neglect undoubted facts as indications as we should be to resent unlawful

¹ Lett. in Glas. D. Mail, 13th June, 1876.

² Do., do.

³ Glas. D. Mail, 30th Sept., 1876.

measures when there is nothing indicating danger. The case of the Indian officer might be instanced.

Of course what is voluntary—which we may consider part of our liberties, though we do not here pretend to go into all the merits of the subject, farther than they bear upon what we are all interested in, personal freedom—what is voluntary need not be interfered with, except that it should be jealously guarded *to be sure that it is voluntary*. For this purpose it should be quite separated from the reverse, treated *like other things* that are voluntary. Even though a person in prison were to assure me he was voluntarily confined, I would not be so sure as if I saw him in a place where there was no bars and locks, and no other prisoners. Mistakes, it is well known, are apt to take place between one man and another, and something is due to strangers, who can only form an opinion by the outside look of things.

It is a contradiction to talk of a voluntary prisoner, it is so entirely different. It is just the same as when one calls in his medical man; he submits himself to his directions and treatment. Why should any difference be made? There are different methods with different diseases, and sometimes places of residence as well as manner of life recommended. More or less self-restraint is always needed to submit to this; and in homes, watering places, residing with a medical man, or even in a hospital, a person meets readiest and best with the kind of treatment needed, and, it may be added, in many cases is more out of the way of temptation of breaking through the directions, than he might be in following his usual mode of life. The extreme of this is when a person is conscious of his inability to keep from drink when tempted, and therefore retires to where he cannot possibly get it. But in this and all analogous cases, liberty is and should be taken care of, and no abuses, or room for them allowed. So long as voluntary, they should all be viewed as pertaining to the many ways of dealing with health. In most cases they pertain more to prevention, or anticipation of disease, than actual present illness, such as entirely lays up a person from business. In short, they are not illnesses strictly, but belong to the general state of health.

Anything further in the way of restraint cannot well be under-

another. The proverb, "He gives an inch, but you take an ell," becomes too often applicable, for these are differences which people cannot see and understand. A few mistakes or a little jesting soon disheartens those who might otherwise contend in politics or civil matters. There is, apparently, nothing to blame, unless we go back to the original mistake of allowing any excuse for departure from the usual rules and the introduction of something extraneous.

When we consider what has been said of "moral treatment," etc., we might suppose there was less reason for these objections, especially on account of morals;—and that can at least be given as an argument for there really being no occasion to suspend the usual common rules—but for some reason or other the accounts we get show no difference. Thus we have the story of a medical man making personal trial by simulation to see how things were managed, and he found plenty of mistakes, carelessness, and the usual supposed horrors.¹ He was himself, for instance, treated as dangerous, though that was not what he pretended to be, and he could scarcely bear up for a fortnight against the very depressing effects of the place. This was in a country where things are thought to be best managed and greatest amount of improvement introduced. Even there it is admitted that there are sometimes mistakes and complaints, but it is said it is impossible they should be lasting.² The safeguard is two physicians signing a certificate. This is just leaving the same room as in other places for mistakes. It is the same trusting to large buildings and officials, and we see mistakes do occur. All that can be said amounts to nothing but that the same outward cruelties do not now exist as last century, and that more money is spent. "For hundreds of years society has gone on torturing the mad, hardening the hardened, depraving the depraved. We are now retracing our steps."³ But there is the same room left for usurping rights, and a simple trusting that such would not be done—nothing done when it is proved to be done, as if it were of little consequence—the same want of the spirit of real jealousy of liberty, and putting mere spurious feelings

¹ See in Sat. Rev., 15th July, 1876; and, Spec. 26th Aug., 1876.

² Scribner, Aug., 1876.

³ Ritchie, Rel. Life, London, p. 107.

selves even be inclined to submit to what others would not, or what they should not be allowed to submit to by others, by the public so far as they can prevent, it being against the general interest. The law knows no state of slavery, and no additional phases of its voluntary nature would ever lead to its recognition ; and it should be the same here.

It is in general, as already said, from what is seen in the public prints, that most will form their opinion as to the rule in these matters. Some of these statements may be mentioned. Thus in the papers there is a complaint of illegal detentions and abuses in inebriate homes, especially in the remote Highlands.¹ One report of the Commissioners tells us that fully five per cent were found sane.² Another report, that there were five prosecutions for illegalities.³ In Belgium, in order to secure a redress of wrongs, "a letter-box had been provided, securely locked, into which letters could be put by inmates of such places, containing complaints, etc., so as to reach authorities without being seen by those interested."⁴ Among us letters are examined. In 1840 a society was formed for protection, and several were restored through its means. In some cases, as everything does not appear to be told, it is difficult to form any opinion, in others there are inconsistencies. Thus there is an instance of "escape after 3½ years," but "two medical gentlemen, on soul and conscience," declared the party "not insane."⁵ In another in England a party is induced to enter a cab and driven to an asylum on the certificate of two medical men. But a meeting of the ratepayers declared he had been "unlawfully dragged from his work under the pretence of insanity." It was styled an "act of tyranny," the medical men being only "private practitioners"; that the allegation that he carried two watches was accounted for by that "he dealt in watches privately."⁶ He had also been accused of "persecuting" a "young lady of fortune," with whom he had fallen in love. Still more serious is the complaint of a person writing to the newspapers saying, that he was "forcibly detained near three months," on a certificate obtained while he

¹ D. Courant, May 4, 1876.

² Papers, Aug., 1872. Report of Com.

³ Rep. Com., 4th Aug., 1874.

⁴ D. Courant and Glas. Mail, July 1, 1873.

⁵ Glas. W. Her., Oct., 1872.

⁶ Glas. W. Her., March 9, 1872.

meddle with, which accounts perhaps for the constant complaint of their neglect and abuse, but which only makes any injustice so much the worse. In most cases everything will be found right, but for the sake of a few we must be particular in all. Even when parties are to blame themselves, justice requires that there should be a fair trial and a limit to punishment.

It may be added that as "it is not stone walls that make a prison," so it is the rule or **MODE OF TREATMENT** that is meant. Whatever is the matter, we need not have *that* if the usual rules can always be made applicable. It is like dragging in arbitrary power to put everything right, only it is worse. Sometimes, indeed, we might need new rules; at other times, however, the evils complained of are what we ought to learn just patiently to bear. New rules, no doubt, cannot be suddenly got, but, though this is a hardship, they will never be got at all, if by having recourse to wrong and unfair expedients we can do without them. At all events, the public are concerned that evils should not be corrected by unlawful expedients. As travellers have to conform to the different laws and customs of the countries they visit, so it should be here. If in prison, conform to its rules; if out of prison, conform to the rules of freedom. If a prisoner is at large, he should be bound by a chain to his gaoler, that others may know he is not free; and in the same way in the other case there should be some one to tell that he is dangerous, or whatever else it is. But this should only be an exception, for in general we should not expect to meet such parties.

"The guarantee of all popular freedom is not in the understanding but in a moral substratum."—*Bunsen*.

asylums." The number of these last have increased three-fold within twenty years. Their abolition was proposed by the society connected with the above meetings. They obviously favour the confounding together of things that differ. If all should be equally free and equal, so all places should be equally lawful, no differences in this respect except those well-known places where force is used, such as a prison, which no one can mistake. And yet even this broad distinction may be lost ; for if "stone walls do not a prison make," we have only to call a house a prison and it is one. This is more easy than we would think. The bars of a prison detain its inmates, because if not they would return to their old haunts ; but if they could not do that they might think themselves better there than anywhere else, for they could not do without food and shelter. From an ordinary house one might go among his neighbours or friends, but if these told him, " You must not come here," and if he met something analogous everywhere he went, what could he, too, do but return to where only he could find food and shelter. In this case no use of bars to make a prison. Otherwise too it exerts an influence, for if there is any noise or disturbance it will be ascribed to the person being more riotous than usual, anything really wrong will be supposed to be looked after by higher authorities. If this were confined to a few well-defined and known places, it would not exert so great and extensive an influence, but private dwellings are everywhere and like one another, and only immediate neighbours could know particulars, if even they. Thus *as to places* it destroys that very sameness and equality we showed to be so necessary for the freedom of civil society. There must be no exceptions if we do not mean to mar everything. There are houses called unlawful, and they are noticed by the Registrar as even affecting the health ;¹ what they are we do not know, but certainly they are against the rule that all places, except prisons, should be equally free.

It might be thought to favour greater freedom ; and it has been argued in favour of as a mere " mode of disposing of harmless lunatics in private dwellings," "for whom strict supervision is uncalled for."² But if it is really a prison, though without bars, where is any freedom ? It might be asked however—What is

¹ Papers, Aug., 1876.

² Daily Scotsman, 1st May, 1874.

the use of *anything at all*, if there is harmlessness? We cannot, however, have anything really half-and-half, or that goes *a short way*. Let there be nothing at all, the same as every other house; no excuse from the presence of even one, that any one place may be different from another in respect of law, equality, and liberty. Who can know *the degree* of supervision? If there is anything at all, it is the same to others as everything. Nothing is more inimical to true freedom than indefiniteness. It is amid uncertainty and doubt that evil has most room to work, and where those who would do right can do least. Confusion and every evil work are allied.

It will be said relations are not to be trusted. And it is true risks must be run, take it as we will, for there are complaints without them; so that it remains much the same on that account. There is a very important matter connected with that, however; for, if we lay the duty and responsibility on *others*, we will think ourselves free. Let us all be equal and free and share alike, and we will feel bound to assist one another, but that wont be so long as we think some have extra help to which to look. If all chance of that is excluded, it is a mere Christian duty and reciprocal obligation to assist one another, and see no injustice is done. All are amenable to public opinion, and to admonitions more or less private, such as might occur in course of business intercourse, clubs, churches, etc. If a person does what is dis-honourable merely, he is marked. Why should any person do such a thing as illtreat his sister for years and nothing be said?¹ One reason is that it is handed over as belonging to other authorities. It is thus made a door and an excuse, or thought a good reason for not meddling with or thinking of what on the face of it would not be agreeable. Everything depends on the jealous exclusion of everything extraneous. Neighbours should have something more to say than "You must not come here." "What do you complain of?" should be a fair question, to be disposed of in the usual civil or social way; there is something or nothing. Easy, of course, to fancy difficult cases; but it is not to be supposed that any would be willing to injure themselves in public opinion, whether in business, club, social meetings, or church, all wish to stand well with these and with their neighbours too. But

¹ See case noticed above.

no doubt, there may be disagreeables to all concerned, and when the law excludes, as it should, everything else, they must just make the best of it. The law is framed dispassionately, and very often does not interfere where we would naturally wish it, for in exigencies men are often ready to use *any* means to get rid of a difficulty ; but this is just what should not be to be had, otherwise the true remedy will never be found, and more or less injustice is committed.

The complexion of life arises very much from things told or said ; something told or not told may alter the character of half a life time. Who we tell anything to must, therefore, be of consequence. We saw that words might make a prison. When there are secrets and underhand proceedings there will be more room for this. There is however a tacit understanding in social and civil intercourse, and nothing but certain usual things are expected to be met with ; all are expected to be on the same footing within certain limits. Many have their failings and faults, and their very modesty may lead them to think of themselves when distinctions are made. Beside this, things of very different kinds often somewhat resemble one another, and therefore there should be no room left for mistakes by any differences being made. It is like a state of war instead of peace ; the two are inconsistent ; they are different states of things. We cannot have the blessing of free and peaceful intercourse if some are threatening violence. One person with a dangerous weapon may terrify all the rest, or at least dispel the quietness of peace. War may seem a strong term to use, but yet anything that implies the use of force cannot be very distant from that state. Any company would be spoiled were it suddenly made known to them that one of their number was anything else than what all were supposed to be. It is to be added that as telling is easy, one may be told and another not. He who is not is injured. To tell a person, to let them into secrets, may be to "put them up to things," and thus give them a great advantage over others who yet may be their elders in years, or superiors in talents or experience. Even children, and those obviously not very clever may thus get the advantage over those who will still pass for their superiors, or at least equals. This of course is unfair to them ; it is just putting them in the place

of others. It is as if we were to put a person in health in place of the sick and sick in place of the healthy. The meagre diet and treatment of the former would neither suit nor be agreeable to the latter especially over any length of time. Yet, of course, it might be made to do, and such an injustice might be committed. Best when there is nothing to tell. We saw in the case of ordinary health, especially if it were an infectious disease, that it would be proper to mention it to a caller, and the same should be done where there is anything legal, for that is a matter of fact; if there is not, there is or should be nothing else, and nothing said of course. A very great many might be affected by an unfair state of matters. It is as if the sick had an unfair advantage over those in health; and therefore is not what any would be apt to complain of. It would naturally affect most those not in the strongest health, but who yet might be far from liking being placed on a sick list; they are most desirous of a just and equal state of things where there are no differences but those well known ones which we cannot be without, such as age, talents, experience. Those also who, from their circumstances or choice, are less tied to regularity, to the more strict rules of society, and therefore are entitled to greater freedom, are affected by it. Any unjust or unfair abridgment of liberty does no good in the long run; it often just gives rise to some underhand or improper mode of getting it, or else it is only the weak or those best inclined to law and order who suffer.

This subject is connected with the trials of life. These of course ought to be borne when they come. Some, when they exceed a certain limit, we may be able to get quit off, but others are to be borne with. Anything that interferes with the fair limits is a cause of great evil by leading people to try to get rid of what they should bear up with. Health in all shapes is one thing. That one individual or family should have good health, and another bad, is not what can be complained of. The only way to get a blessing from the latter is cheerfully to bear up against it.

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Glory rewards the fulfilment of duty;
Rest will pavilion the end of our way.¹

¹ See *wiss.*

Nothing is worse than any attempt to get rid of this, from any mistaken notion ; we lose all chance of blessing, and give rise to a most disagreeable and immoral state of things. The best things become the worst when abused, so here what might be among the highest exercises of virtue becomes a field for most selfish and heartless conduct. There have been instances of it in the case of plagues, where the sick are apt to be abandoned by the living except when the noble courage and self-denial of some lead them to minister to the sufferers. Here the danger may afford some excuse : but at all times it is to be feared that bad health is apt to be looked on as an annoyance, as if the party himself was to blame, and he was to be got rid of as easily and soon as possible. But there have been instances of those who have borne with what was almost beyond that limit and where the law comes in ; a celebrated essayist continued to live with a sister after she had given unmistakable proof of danger by killing her mother ; and others have often been praised for bearing with the trials arising from those given to intemperate habits. And we may remember that many things that would not do in regular formal society can be borne in ordinary life ; but there is a tendency to extend the rules of the former too far. Laws and various kinds of public institutions, if abused, may contribute to destroy independence, and give rise to selfishness when burdens are too easily transferred to others ; but freedom is only interfered with when we come to the legal limit, which therefore should be carefully guarded, as the same temptation exists to bring it in too soon and where there is no necessary cause.

There are limits of course to such trials, or otherwise we might just come to those evils in another shape we have been deprecating, though there is a great difference between abuses of freedom and any abuses such as might spring up in a prison. The usual rules should never be suspended even though often broken, no extraneous authority should be introduced. Take the common case of intemperance as an example. It is what we can understand and make allowances for ;—and it makes the best example because best known, and in it liberty not apt improperly to be interfered with. No doubt on account of the bad example and its disagreeable effects we might be anxious to get rid of it altogether,

but we can reason with it, dissuade from it, and treat it reasonably; if it goes beyond certain limits it becomes legal, and we might have to hand over such to friends, but that is only when persons obviously cannot take care of themselves; making an unreasonable noise and disturbance too exceeds the limits, but that too is obvious, and can be dealt with in the usual way, and the same can be said of extreme cases of all kinds. There is no merit whatever in bearing such trials unless we adhere to the usual rules of things. When the limits are exceeded there is much of sameness in the treatment, at least so far and at first, and therefore less excuse or need for dragging in anything but what is usual, the common law. Thus we find a judge telling a prisoner that he "was in doubt whether there was not that kind of insanity that would subject him to confinement in another shape."¹ It is an important difference, but still it shows we need not depart from the usual reasonable rules too readily. If any do not adhere to the usual rules there are the usual penalties, up to, as in this last case, imprisonment. Civil life has ample protection in that way without bringing in something of an entirely different kind that in no way coalesces with it but creates many evils.

It is no unimportant matter that ill health of all kinds sets aside the usual laws. A man cannot be punished even, if he is unwell, if we treat him fair he must be treated even with indulgence when sick. In mental matters this is still more important, as morals are higher than material things. We cannot be too careful in giving any excuse for setting them aside as if they had no existence. This is the strong tendency. Morals are, as it were, suspended. Like in a bad atmosphere everything is corrupted; truth especially is disregarded; deceit, fraud, trick, are thought nothing of, they are done without the usual sense of wrong-doing. All that is most valuable in life is thus destroyed—trust and confidence; it gives rise to suspicions, intrigues, caballing, conspiracy, often too what is bad comes to be considered good, and what is good bad. There is the putting one thing in place of another, like jugglery; this is often done simply by underhand practices, secrets, not mentioning what should be mentioned; and, as already hinted, all this is assisted by the circumstance that

¹ Newspapers.

those who themselves would not do them may be "put up to them." In short, there is room for crafty practices of all kinds. It can readily be supposed in what way many of these might come to spread. Jesting might begin some, and with nothing to make serious would continue and spread to others. Some might understand one another, and then the same spread to others. At all times there are plenty apt enough to make free with truth and good morals, and little need of anything supposed to excuse or at least to give rise to it.

Another thing is when anything unusual brings to light the hidden motives which actuate the conduct, there is generally found more of wrong ideas and unlawful meanings than anyone would have suspected. They explain the cause of many evils. Often something that is allowed only in certain circumstances, is found to have spread and be done without any regard whatever to circumstances. The name of a thing easily spreads, and at secondhand there are no explanations, limitations, etc. It is what all are ready to give in to. The remedy is to abolish if possible the very name and thing itself.

No excuses of this kind then should be in social or civil life. The distinction kept broad as it naturally is. No laws or rules suspended. If a prisoner is treated with indulgence when sick he is not mixed with others so that they may get the same indulgence, he is sent to the hospital, and if a contagious malady he is sent for another reason. The sick in their beds cannot be mixed with those in health, and the same applies to those who are under other rules in mental affairs. So long as among those in health we must conform to the usual rules; a sick man like a wounded man has to be carried to his couch, out of the road altogether; he now can render *no* service; if before he could do a little only, it was still something; he is now under different rules from those of his captain's; if he recovers he will distinctly return to them again.

This confusion or suspension of the usual laws is unfavourable to freedom, civilly and politically. It is injurious to what is charitable also. It is in favour of the spread of arbitrary power, and that in its worst form, for it has not the limitations that even that generally imposes on itself. Persons, times, and things, can readily be confounded, mistakes made, and one put in place of

another. The proverb, "He gives an inch, but you take an ell," becomes too often applicable, for these are differences which people cannot see and understand. A few mistakes or a little jesting soon disheartens those who might otherwise contend in politics or civil matters. There is, apparently, nothing to blame, unless we go back to the original mistake of allowing any excuse for departure from the usual rules and the introduction of something extraneous.

When we consider what has been said of "moral treatment," etc., we might suppose there was less reason for these objections, especially on account of morals;—and that can at least be given as an argument for there really being no occasion to suspend the usual common rules—but for some reason or other the accounts we get show no difference. Thus we have the story of a medical man making personal trial by simulation to see how things were managed, and he found plenty of mistakes, carelessness, and the usual supposed horrors.¹ He was himself, for instance, treated as dangerous, though that was not what he pretended to be, and he could scarcely bear up for a fortnight against the very depressing effects of the place. This was in a country where things are thought to be best managed and greatest amount of improvement introduced. Even there it is admitted that there are sometimes mistakes and complaints, but it is said it is impossible they should be lasting.² The safeguard is two physicians signing a certificate. This is just leaving the same room as in other places for mistakes. It is the same trusting to large buildings and officials, and we see mistakes do occur. All that can be said amounts to nothing but that the same outward cruelties do not now exist as last century, and that more money is spent. "For hundreds of years society has gone on torturing the mad, hardening the hardened, depraving the depraved. We are now retracing our steps."³ But there is the same room left for usurping rights, and a simple trusting that such would not be done—nothing done when it is proved to be done, as if it were of little consequence—the same want of the spirit of real jealousy of liberty, and putting mere spurious feelings—

¹ See in Sat. Rev., 15th July, 1876; and, Spec. 26th Aug., 1876.

² Scribner, Aug., 1876. ³ Ritchie, Rel. Life, London, p. 107.

of charity in place of justice, or at least a feeling of justice that does not go far enough to secure the justice required. *Justicia fiat ruat cælum* is not what all are inclined to face, though it only implies being downright serious, and going the whole length necessary. But certainly such a serious phrase would require us to be sure of the ground we go upon—the simple fundamental rights to which there are to be no exceptions.

In short the complaints in all countries and at all times seem pretty much the same, and show that there cannot be too much jealousy of liberty; that this should not be left to exigencies, but one uniform rule, framed beforehand, acted on, such as a jury trial, etc., etc., the same as for other offences. There should be always something distinct and decided too, that can be told, such as danger. This last should be considered the main reason. It is what the public are most concerned in, and about which there can be no differences of opinion. It is separated by a very marked line from everything else. Classification is what is generally recommended; but classification implies a good deal of resemblance; and this is a wider difference. All peculiarities, or by whatever name we called them, are of a totally different nature from what is dangerous. There is nothing we can suppose that could be said or done for which the usual rules and laws would not be applicable or made applicable. And the same as amid all the differences of medical complaints classification might be applied in hospitals or such like places.

As to the important matter of a jury there are some points to be kept in view. It has been several times stated that there is no "special competency to determine upon part of medical men generally."¹ A judge says, "It is a fact, not a disease."² A mixture of professions, then, could best judge it, or an ordinary jury. It is obvious there are often matters which other professions or businesses could best form an opinion of, to say nothing of the personal interest in payments, which even insensibly might bias.

Everyone should beforehand make it a point of conscience and duty to see justice done in such matters, for they are apt to be connected with disagreeable things that most people do not care to

¹ Lanc., 29th Dec., 1879.

² Chancel. Westbury.

meddle with, which accounts perhaps for the constant complaint of their neglect and abuse, but which only makes any injustice so much the worse. In most cases everything will be found right, but for the sake of a few we must be particular in all. Even when parties are to blame themselves, justice requires that there should be a fair trial and a limit to punishment.

It may be added that as "it is not stone walls that make a prison," so it is the rule or MODE OF TREATMENT that is meant. Whatever is the matter, we need not have *that* if the usual rules can always be made applicable. It is like dragging in arbitrary power to put everything right, only it is worse. Sometimes, indeed, we might need new rules; at other times, however, the evils complained of are what we ought to learn just patiently to bear. New rules, no doubt, cannot be suddenly got, but, though this is a hardship, they will never be got at all, if by having recourse to wrong and unfair expedients we can do without them. At all events, the public are concerned that evils should not be corrected by unlawful expedients. As travellers have to conform to the different laws and customs of the countries they visit, so it should be here. If in prison, conform to its rules; if out of prison, conform to the rules of freedom. If a prisoner is at large, he should be bound by a chain to his gaoler, that others may know he is not free; and in the same way in the other case there should be some one to tell that he is dangerous, or whatever else it is. But this should only be an exception, for in general we should not expect to meet such parties.

"The guarantee of all popular freedom is not in the understanding but in a moral substratum."—*Bunsen*.

CHAPTER VIII.

FUNDAMENTAL PRINCIPLES IN THEIR MORE CIVIL ASPECT, AND THE
REMEDIES AND SECURITIES THAT MIGHT BE HAD.

Instances of the evil of uncertainty and indefiniteness in laws. Payment of damages as a remedy. Instances in which this might be. Would not interfere with liberty. Reasons for. Importance of fundamental rights and how to secure them. There are degrees of perfection. Personal effort and officialism.

“Uncertainty!
Fell demon of our fears! the human soul,
That can support despair, supports not thee.”
—Mallet.

THERE are, however, other departments, more direct and civil in their aspect, in which personal liberty is concerned, though these have still a very direct bearing on social rights; and again we may repeat, that too much can scarcely be said of the importance of not mixing up things that differ—that everything ought to be distinctly one way or another; as, that *all* should be free and no slaves at all, or anything like slavery—no half liberty. If a person is a prisoner let him be in prison, and then there will be no mistakes, otherwise there might be mistakes, or room for pretences of mistakes; or, at all events, the very suspicion and uncertainty that might arise would be injurious. It would be sure to affect many, very many, beyond the exact parties meant.

Instances of the evils of the annoyance arising from uncertainty can be given, and showing how it affects all concerned. Thus it was contended, in a rod-fishing case, that the bailiffs had no right, under the Act, forcibly to look into the creels of those legally fishing, and tumble out the fish. It was also complained that “persons have information laid against them who have never been near the river at all,”—cases, of course, of mistaken identity. And it was said there had been an “immense number of convictions on mistaken identity.” Nothing can be more annoying than for a person entirely innocent to be thus accused. It is the want of certainty—of a definite and distinct mark of which there can be no

mistake. These were styled "indiscretions" that "will occasionally occur." But this, then, leaves parties at the arbitrary discretion of the officer. The effect would be to deter parties from fishing, or even from going near the river at all, and thus liberty is indirectly affected. Suspicion is a bad thing, and best when there is no room for it. Vagueness and indefiniteness are sure to give rise to it. This case is only an amusement, to be sure,¹ but persons might be prevented taking a walk by the river-side in consequence. *Actually to see* the fish, in this case, would be something definite; of course, it requires more trouble, but that should be given. A person then, and then only, could walk or fish in security.

Another instance of the evil that arises from the violation of the same principle we find in a case more in ordinary life. It is the case of a gentleman in the army being taken for a thief while standing at the theatre; he was merely *supposed* to be loitering, was accosted by the police, who said he "wanted to know who and what he was"—spoke to him uncivilly, got no answer, and then laid hands on him. The police were fined 21s., showing they were considered in the wrong. The vagueness and uncertainty was made worse here by the police being in plain clothes, so as to be unknown to the other party. As the papers say, "If a mistake could be pleaded successfully," "nobody would be safe from insult coming out of church as well as coming out of the theatre." Here two men were "set to watch for suspicious characters."² It was considered by the court "chiefly an error in judgment," which still leaves the vagueness. The great principle is, that a man is to be "treated as innocent till proved guilty," and an equal law for all, even when parties may happen to be doing what looks suspicious to another. Without an opportunity of explanation there are apt to be many things which to others appear unaccountable if they happen to be noticing; they are *things they have nothing to do with*, to notice them is violating the rule of every one minding his own business. "An error of judgment" is making the wrong party judge. And even when nothing farther is done it is probably to most people worse than any penalty that might be inflicted; the loss of time, the

¹ Dail. Soot., Nov. 11, 1874.

² See papers of 16th Oct., 1874, and 21st Nov.

annoyance, the insult, and suspicions among others it cannot but give rise to, and even when everything is satisfactorily explained to them, many little private particulars are dragged to light that were never intended to be so, good and well if they involve nothing awkward ; in short, a penalty is nothing compared to the rest of the annoyance. In this case it would have been something definite *to have seen* one man with his hands in another's pocket, -and in that case there could have been no "error of judgment;" judging by appearances, or by trivial acts, is *very different*, and lets in the whole evils of arbitrary power.

On this we have the testimony of a practical man, who says, "That the policeman has always much in his power, and may abuse it" by "false accusations" and otherwise. "A good deal has lately been said how far the police are justified in being cognizant of thieves' haunts." It is added that the "greatest caution" is necessary in "order to prevent the despotic power they wield being used for bad purposes."¹ More recently much has been done in at least apparent violation of this principle ; and one writer, who finally approved of the acts, at first thought them very startling as being against the well-known maxims, "Every man shall be held innocent until proved guilty ;"—"the burden of proof rests on the accuser." These maxims "lie at the root of English criminal law. I suppose that every Englishman values them as most precious safeguards of liberty." . . . "It was with something very like misgiving that I silently assented at last in the House of Commons to the facts and the arguments of the Home Secretary." It at least can be said that like most rules agreed upon coolly beforehand, they are fixed and definite within certain limits, and leave scarce any room for mistakes. Thus, for one thing, they apply to those *known* by previous conviction ; and that leaves no room for mistakes as to others. It will be said that they too should have a fair equal chance. And we find in one case a complaint of this kind, that they had no chance of redeeming themselves, for they were liable to be treated as rogues and vagabonds when not doing anything wrong.² The case mentioned on page 142 went further

¹ Capt. Fullarton on Prison Discipline, superintendent of Stafford Gaol, In Meliora, p. 154.

² Letter in the newspapers.

than this, however, for the person was not *known*. In another case a policeman was fined for assault. He had asked the party's name, who said he had "no right to ask his name." He was merely walking home at night. The policeman said he "had a right," and arrested him.¹ The ill usage, or assault, took place afterwards, and it does not clearly appear whether it was considered wrong to "ask name" or not. There are apt to be cases where mistakes might readily arise. Thus two gentlemen complained of being taken to the office at night; they had been assisting a drunk man, but it turned out that the man had been robbed, and, of course, they, as strangers, had to clear themselves. There was a reason, therefore, in this case. And every good citizen should be ready to submit to trouble or even annoyance in such cases. There are other two cases that illustrate the same subject. The police noticed a painter standing at the corner of a street before twelve o'clock for two hours, and who obviously avoided them as they passed. They asked him what he was waiting for. He said for a groom in one of the stables near. There was such a person, but he said though he knew him a little he was not waiting for him. It turned out that it was another person in the same house with whom he sometimes walked. He was taken to the police office, etc., etc. He of course might naturally avoid the police, as any other person would if liable to be questioned at all. Many reasons may lead people out at night—appointments with others to visit sick, or for study, or scientific pursuits, or even curiosity to see the town. It was no sign of ill-intent standing so long and being seen. Shouting or making a noise would be a distinct cause, but the vague liability of being questioned or apprehended is another matter, and inconsistent with constitutional liberty. It says he was charged "with being a suspected person" before the magistrate. His defence was accepted and he was acquitted;² but of course there was all the trouble and annoyance. The rule does not appear uniform, however, for we find in a case three years previously a young man placed at the bar "on a charge of behaving in a disorderly manner," when the assessor said it was "imperative" that the libel should state "in what

¹ Glas. Week. Her., 22nd January, 1876.

² Glas. Week. Her., 7th June, 1879.

respect the prisoner had been disorderly."¹ This, although disorderly implies a good deal more than merely waiting.

The great principle here, no doubt, is, that every one is to be held innocent till proved guilty. Also, that the amount of punishment is strictly defined. There are further considerations, in harmony with these, which should be always kept in view and acted on—that nothing should be said of a person's past offences, they should be, as it were, forgot. If this is not done, it is the same as prolonging and greatly enhancing the punishment. If we cannot forget altogether literally, much must depend on the principle we act upon; for we may tell others of what they would not otherwise know, and thus keep up against a person the memory of his past misdeeds, as if he had neither been punished nor repented, but was still ready to commit the same offence. It need not be said how great a bar this would be against one getting on in life, where often the slightest thing turns the scale for or against a candidate. Yet we read of the complaint that they "get no chance." A society for "giving employment to women on leaving prison" says its homes are "invariably full;"—that many "cannot see their way out of" the "life they are leading," though "weary of it," as "no one will employ them." Of course there will always be sufficient difficulty in thus getting employed, although nothing is done to enhance it. But from instances it appears as if the principle of forgetting past offences and giving a fresh start was not acted on. Thus, of one we are told that he "was recognised as a convicted thief, and was expelled." The same was "discharged with ignominy" from the army. No doubt in this, and perhaps in other cases, there are fresh offences; but it is not clear that in some the past offence simply of itself is not counted against them as a bar. At least so it reads—"was recognised"—in this and many other instances. It is such intimations that go to form public opinion; and, however seldom done, its influence may be great and extensive. If it is not so it ought to be stated. And again it is to be remembered that *it is not what is done but what is in a person's power to do* that gives rise to the state of things

¹ Glas. Week. Her., 5th Aug., 1876.

² Glas. Week. Her., 10th Aug., 1878, in reference to Prison Gate Mission.

we all feel the effect of. It spreads far beyond those to whom we naturally suppose it applies.

All the cases of "loitering with intent" read in the same way. Thus, within seven or eight months there are three cases of this, and doubtless many more occurred¹—where "intent" appears the only ground—for these are only instances, or specimens. Thus in one case four are accused of "being found" on a race course, "they being well-known rogues." One, "who was respectably dressed, said he was a cattle dealer, but" the "detective said he kept bad company." "All the accused protested their innocence, . . . said it was hard that they should be interfered with while endeavouring to earn an honest livelihood."² They were, however, all *well known*, and this, if invariably acted on, is so far a protection to the general public, though it still leaves room for mistakes being made, which we have seen is sometimes the case. They were sentenced, "for the safety of the public," to be detained "till the races were over." In this case it was clear that there was no actual offence. One said he was on his way to see a dying mother. This *might be* true, as well as that they were trying to earn an honest livelihood; at all events it is against the principle of holding a person innocent till proved guilty, and that after suffering punishment the offender is to be treated the same as others. It is another great principle of liberty that an offence must be actually committed before anything at all can be done. It is, as it were, a price we pay for it. It is the wide influence that the violation of these principles exerts that is the chief evil. Where there is room for mistakes a door is opened, and an excuse is ready for making them; and none, even though respectably dressed, can feel absolutely secure, especially if loitering; and it is difficult to see that it would not put a bar in the way of earning a livelihood. To be respectably dressed even is insisting on more than we have a right to, and being "well known" should by itself lead to nothing. In short, actual deeds is the best limit. We cannot be sure that promises of amendment, or rather that the "seeking an honest livelihood" and of "getting no chance," are always mere

¹ See Glas. Week. Her., 5th Jan., 1878; Ed. D. Cour., 7th Aug., 1878; Ed. Rev., 28th Sept., 1878.

² Glas. Week. Her., 22nd Sept., 1878.

pretences. We have the instances of Norfolk Island and others to show what a great deal depends on mere outward circumstances, the way in which treated, and opportunities given. This agrees with the principle a writer on the subject lays down when he says, "The sooner a criminal can be brought back again to his proper place in the community the better," and that "no modification of prison life can offer healthy education."¹

In cases of wrongous imprisonment and also false accusation compensation is given; this is but fair, and can only lead to still greater care being taken. Instances of the latter we have where damages, £6 and £2, were given against the accuser, in one case for stealing a shawl, in the other a pair of boots.² Of the former, in one instance, £100 was claimed as damages for arrest without a warrant, though liberated when found to be a mistake.³ In another, a person after being a month in prison was found innocent and liberated.⁴ He had been sentenced to ten months for stealing, owing to a mistake in a witness identifying a pair of boots; nothing is said of compensation. Compensation could do no harm if it only gave rise to more caution as to evidence depending on the identity of a pair of boots. Sometimes cases are not so clear, as where the "verdict was warranted by the evidence"—that it arose from the "defect of human testimony"—that damages "would constitute a very inconvenient precedent," that they must be "prepared for every case." But it was well answered, that in all cases they should do justice; and that the principle had been admitted and a claim paid. In one important case of this kind, where the injured party had suffered twelve months' imprisonment and great pecuniary loss, in bringing to justice the persons who had conspired against him—the witnesses pleading "guilty to the charge of conspiracy and perjury"—the justice of compensation seemed to be allowed after discussion.⁵ Here there was pecuniary loss as well as trouble. It is only adherence strictly to one rule that can apply to and reach *all* cases—such as cannot afford expense of any kind, even to show their innocence.

¹ Social Science Congress, Glas. Week. Her., 26th Oct., 1878.

² Glas. Week. Her., 13th Jan., 1877; Do., 9th Feb., 1878.

³ Glas. Week. Her., 21st Feb., 1876.

⁴ Ibid, 9th Feb. 1878.

⁵ House of Com., May 2nd, 1864.

But whatever difficulties there may be as to cases arising from perjury, there can be none as to the unfairness of imprisonment before trial. Yet the criminal returns show this. The hardship, of course, is in the case of those afterwards acquitted. Thus, in one county in one year, there were eight cases of being in prison from fourteen to eighteen weeks before trial, and six cases of from thirteen to seventeen weeks before acquittal.¹ It is fair to state, however, that out of 175 only *one* was found not guilty, 21 being *not proven*, implying suspicious circumstances unaccounted for. We read of a pensioner, in another instance, being twice acquitted after three months' imprisonment, and dying of a broken heart.² All should be prepared to submit to hardships, if necessary, in the way of obtaining justice, but they should be as few as possible. In the above returns there were 19, besides the 175, who were liberated without trial, many of whom, whether guilty or not, must have suffered imprisonment for a good while. The desire also to avoid this injustice must favour the escape of the guilty.

Another branch of the same subject is the arbitrary entry of common lodging-houses at all hours. This has been protested against as "invading the poor man's rights."³ The reason that justifies in this case is health, and it is limited to very small houses. It pertains rather to sanitary matters, and the extreme to which overcrowding is so often carried shows its necessity. The evil is that mistakes may be made and excuses pretended in all these cases. They should, therefore, be as clear and definite as possible. But one great remedy is to be "held liable for the consequences" afterwards, if there is nothing to justify. This shall be mentioned in an after page. It may be added that in Boston, America, we are told that they have abolished the "detective police system, which has long been in disrepute there."⁴ Probably they had found a secret arbitrary authority incompatible with general freedom. But without knowing particulars and what precisely was objected to, we can say nothing on the subject. To detect wrong-

¹ Renfrewshire Crim. Ret., 1877. Glas. Week. Her., 2nd Feb., 1878.

² Papers, March, 1878.

³ Protest by three of Board of Guardians, Belfast.

⁴ Papers, 1870.

doers is the very end of the police, but then everything should be consistent with the great principles of constitutional freedom.

These are more civil matters, and dealt with by direct laws, but in the case of those more indefinite rights, many often beyond literal laws, treated of in the foregoing chapters, we may ask—How are we to secure the observance of all the rules of fairness? They are easy enough to be understood, and yet are those which carelessness and self-interest will be very apt to lead us to overlook. They are connected with rights the violation of which cause us damage, often serious and disagreeable. If we do not consider their violation the same as a civil crime, they might be treated differently; more like an ordinary case of damages. This would, at least, lead all to be more careful. The damages might be like a civil debt, to be paid at convenience; that is to say, not to ruin the party, but merely to take off his superfluities. As in taxation a margin is sometimes left untaxed, sufficient for a bare livelihood, so the same might be done here. This would be fair enough, without being too oppressive. It would be merely as if we took a few luxuries from the parties' table. And it is all the more fair when we come to consider that, where damage is done, this is just what has to be suffered *by some one or other*. Now, if *some one* has thus to suffer, who is it most fair that it should be? obviously the person who causes the damage. Of course, there are the objections that the very poor and very rich would be but little affected, but still the effect would be good. Even the poor have generally some luxury to spare, and a debt to be paid by an arrestment is an unpleasant claim. Perhaps the rich, by paying a large sum, would, at least, in some measure, make up for the injury he had done to the party damaged; and there is something in it being a clear acknowledgment of right and wrong, and, at all events, is better than nothing at all. Such damages, though not meant to pauperise the parties, should be large and different from a mere penalty. Of course, this could only be in provable cases, of which, however, there are far more than they are usually extended to, leaving still many things to be checked by intelligence and conscience. Even when the last are not wanting, there is need of every help to get justice. Motives are complicated, and a little of self-interest in the right direction helps the understanding to a

right decision, even where there is no conscious wrong motive, much more where there is apt to be confusion and carelessness.

Such claims for damages might be imposed for injuries of all kinds, as the principle seems equally applicable to all. Thus, in the ordinary course of things, we may suppose two men, and the one injures the other. This may affect his business, profession, or trade, and the consequence is, he is deprived, as it were, of so much of the comforts of life, may have to live more poorly, etc. This is the damage the other should pay. If we capitalise it, it comes to a considerable sum. It is fairer that the party who injures should suffer than the other, and, therefore, there is nothing to complain of if he has to pay what might be called heavy damages. If it deprives him, or might deprive him, of some of the comforts of life, it is different from a mere fine, which he would scarcely miss in that way. Something of this kind we have at present in the case of the Customs and Excise Laws. Damages sometimes of hundreds, and in the Excise Laws instances of a thousand pounds, are inflicted for their violation.¹ There is no room for pity, as the parties need not incur them ; and their loss can be only some of the comforts of life off their tables or dress, or of their status in society. There need not be anything degrading in such damages ; they might resemble a mere civil debt to be paid with interest as soon as possible, their property and prospects being answerable for it.

Damages are at present given for injuries by accidents, and sometimes these amount to large sums. This might be further extended, to all cases at least where through carelessness another was injured, or through the want of something which should have been done. But it might be said that accidents have not so good a claim as those things which people do, or leave undone, on purpose, or say or don't say, and which are perfectly in their own power, which accidents may not be, though generally accompanied with carelessness.

There is at present the want of something, as it were. When anything is done wrong and unlawfully, there should be some penalty for doing it. Public opinion and manners may answer for some things, but only for some ; and besides, these are easily broken through whenever any one chooses, the loss of mere good opinion

¹ See case of a farmer in Orkney fined for malting, Spring of 1876.

not being enough ; while they are liable to be perverted by misrepresentations, for they do not imply examination and proof. It is often difficult to get the wrongness of some things so fully understood as to prevent their being done, in that case anything that shows the general opinion of the community has a good effect, such as having to pay a penalty would. To answer the end, such damages would require to be easily got, and to be worth getting. To prove damage should not be necessary, as that might be difficult, and is rather an accident than having any bearing upon unlawful things done by the other party. True, a person may not be injured by what another has illegally said or done, but that is a private consideration. And the public also are concerned in putting a stop to illegal things. On the other hand damage is often greater than any money can make up for. If a person had any objection to take money when not injured, there are plenty of public and charitable objects to give it to, while a feeling of duty should lead to its exaction.

To consider some instances—there would be damages for anything done or undone, told or untold. This not confined to matters of strict law. It would be truly at his own risk then that any one acted. It would only be fair manliness ; it would be to pay for the damage he did ; it would be himself to suffer the consequences of his own conduct. Why should the admonition—"Take care what you say," or "what you do," be confined to only certain important occasions and for large matters. Small matters, such as misrepresentations, misinformations, etc., are often of greater importance, and when done on purpose may be even more deserving of punishment. They often involve consequential damage, which might be great though proceeding from a trifle apparently. There might also be damages for not transmitting letters, parcels, etc., for not giving a person's address if known, in which case if he wished it not known he would have actually to conceal it, but in most cases we must suppose parties to wish for every facility for communications, etc., reaching them. Damage from carelessness might involve damages of a smaller amount ; for what is chiefly meant are those injuries, etc., which are quite in the power of the person to refrain from. There might be damages in many other cases, indeed in all those involved in what has been

already said; in short, wherever reasonable and provable. Thus, there might perhaps be damages for giving a letter to another party than the one addressed, and that even by the party addressed. This would not prevent the latter telling, or even writing, the contents of it (if allowable) to anyone he chose; but would prevent letters being given or falling into the hands of others, prevent carelessness, etc., etc. A person would have to burn a letter or keep it carefully. This would be no hardship; and something is due to the *writer* of a letter as well as to the recipient of it. There might also be damages in the case of a stranger writing another without *good reason*, and giving any information, etc., as well as for the party receiving keeping such letter. Asking charity might be considered a good reason, or any usual correspondence on neutral topics, such as literature, etc.; but anything personal or of a legal cast, without sufficient reason, is different, being of the nature of conspiracy. It is another important point that would afford a remedy for the evil above alluded to, that there might be damages for reminding one of a former punishment, or telling it to any. It does damage certainly, and can as easily be restrained from as from injuring a man's money credit, or any other defamation. It is only to forget all done in prison, and to treat the party as if a different person when he has laid aside the prison dress. There might be damages, too, in many of the cases mentioned above (pages 147, 148). If it were considered hard to fine for a mere well-meant error of judgment, they could be paid out of public money, if the error were thought excusable or not great. This rule might be widely extended.

None of these would interfere with fair liberty, they would only make people more careful what they did. In reality they do not prevent a person doing what he chooses, but only provide that the other party, if any of his rights are violated, or he is injured, should receive damages, and that the first should pay for the damage he does. He might run the risk of this if he thought there was no harm to ensue, but where there was undoubtedly a wrong intended or involved, or even a making free unnecessarily, he would suffer the consequences. He would not be free to do as he chose, without the other party having a remedy, and with nothing to check him. The increase of liberty in the one party

should be accompanied with a corresponding something in the other. Better put up with occasional mistakes than allow no remedy at all for all the injuries that may be thus easily committed. It is like allowing the free use of a garden, and, when injury is sometimes done, instead of excluding *all*, insisting that those only who do damage, or transgress rules, should pay for it. There is often too much a disposition, when there are evils, either to allow them to go on unchecked, or entirely to put a stop to everything that *may* cause them, thus injuring liberty, instead of merely punishing or putting a stop to the exact wrong done. As society advances there will be need of more and more of this discrimination. "The current of moral criticism, not only of individual minds, but of the body politic, is—I rejoice to write it—constantly advancing in fineness and discrimination"—the amendments in "jurisprudence, and the whole scheme of reformatory machinery, are only practical moral differentiations."¹ One general rule is not enough. It is excellent in its own place, but it does not go far enough, and should not be rested in. Even a victory gained requires to be followed up, or its advantages may be lost, and the enemy as strong as ever. A general principle requires to be carried out and applied in detail. Not only no literal slavery, but more and more nothing analogous to it. *Resting* in mere generalities is vain and ineffectual.

There are many reasons why there should be damages for things often thought unimportant, especially on behalf of the general public. The law itself is often rendered useless unless one can get certain things done, such as the transmission of letters, information of what he should know of, etc., etc. That a person is not always on the spot renders these of still more importance. There are many things besides actual property that require to be attended to if a person means to secure his rights. These rights are most valuable, and in the main they all depend on *information*—except perhaps the right to *do* things, and that often depends indirectly on information too. Property is tangible, and doings or actings can be forcibly and visibly prevented, but everything else of the nature of rights depends upon word or speech. It will be admitted that at present in some cases a few words may give rise to rights

¹ Tangled Talk, p. 225.

involving money payments even, as when goods are ordered, etc. In other cases something may be said implying the nature of giving authority to act for or in behalf of. If words convey such rights so may they in other cases—that is, they may give a claim for damages; and that may be as clearly seen and known as in the case of the few words by which goods are ordered, or by which one orders anything to be done for which he will have to pay—it is no vague uncertain thing then into which one may inadvertently fall. Words or writing are distinct and certain. There would always be the person's own honourable declaration, as well as of any witnesses who heard them. Everyone in general is conscious when he breaks the law, even when he feels safe that it cannot reach him; that it was made to reach him need make no difference except that he refrain from breaking it. To leave such things to be matter of social and friendly feeling, of chance, or rather to the influence of wealth, is very different from making them matter of civil right so as to secure equal justice and fair play to all. This will hardly be got without law, however. At present there are serious consequences attaching to personalisation in order to fraudulently obtain possession of property—imprisonment for life or for two years.¹ This, no doubt, is enough to deter from that. The consequences are ruinous. But why might there not be consequences to deter or to repair damage in other things, though not going so far as to ruin wrong-doers. This, as already said, we might have in damages like a civil debt hanging over parties, without imprisonment. To prevent a man from following his calling is ruin, but merely to deprive him of a few of the luxuries of life is not. In the case of the Customs and Excise, and of damages given in many instances of accidents, we have seen something like this is done. In one instance a professional man obtains £16,000 from a railway for being disabled to follow his profession.² This shows that the principle is already so far acted upon, though there might be differences of opinion as to the amount, and the precise cases to which to apply it; but there are many other cases in which it is more clearly applicable, and would do more good.

Allowing each to act as he chooses cannot but well be a great

¹ See Act, July, 1874.

² Newspaper, Dec., 1879.

part of liberty, but, like everything else, it has its abuses, and these are great, corresponding to its excellence. It has been objected to on this very account, as making government too much of a "mere police." It is said to be a system of "leaving men to practise for their own advancement all arts, save actual violence; of allowing every natural and every artificial superiority to enjoy and push its advantages to the utmost; and suffering the weaker to pay the full penalty of their inferiority."¹ But there might be remedies for all this, without destroying self-government and the liberty of each following his own interest. Many of the evils that spring from it arise from the want of public spirit, or of a Christian and reasonable spirit,—the remedies for which are moral, and of a voluntary nature. What more is needed as a matter of law—and the abuses alluded to point to the breaking of law in its more general form—we have seen may be found in penalties and damages for its violation. If, on the one side, following self-interest leads to the injury of others, let this be met by corresponding rights on the part of those injured, such as will make it not the interest of any to injure. If the crowds admitted into a garden of flowers and fruit injure them, make them pay, and pay well, for what they injure, and there will be none injured.

We need not be surprised at the importance of these fundamental rights, and the great mischief and misery that arise from their violation. The foundations of a building are hidden and obscure, but are of the utmost importance to its safety. This is most clearly seen when they are undermined. In the same way, rights of all kinds—political, civil, social—may be undermined. While we are striving for them outwardly and openly, we may be forgetting and overlooking what is going on more obscurely, in trifles, amongst the poorer and more despised part of the community, or we may overlook what is said or done before our very face, as being a trifle and having no bearing upon important rights. Adherence to principle, however, involves the standing out upon apparent trifles. Our not doing so shows we have not sufficient faith in our own principles, either that we do not thoroughly believe them or do not understand their value. Those who are against us know this, and are ready to take advantage of every opportunity. They know that every-

¹ Arnold.

thing follows in a train, that if the principle is yielded in a trifle, the rest will follow; or that while something is outwardly contended against, it is in reality allowed to be done in detail. There should, then, be no small injustices allowed, no exceptions. This undermining goes on by means of misrepresentations, intrigue, craft, and conspiracy, etc., by taking advantage of every opportunity. To meet it, therefore, we should not allow misrepresentations to be uncontradicted. Do not permit a stranger to go away and think so and so, from something that he has heard without contradiction; for he may repeat it to others, and so it will spread. Much thus lies in the power of everyone by speaking, telling, etc., as well as by advising others. We should not rest in allowing any obscure wrong—it is worth while to contradict it, or put it right—no more than we should rest if we knew that some fraud had been practised in laying the foundation of a building that would endanger its security.

It is true we cannot be sure that such obscure things will turn out of any consequence; and we are not apt to suppose that great harm can arise from any wrong that attends them. But trifling as we may suppose them, they are but the indications of a wrong spirit that prevents all good. The very proverb says that "wrong never comes right," trifling though it be. Others have said what amounts to the same, "Immoral means will ever intercept good ends."¹ "I have seldom known any one who deserted truth in trifles that could be trusted in matters of importance."² We need not think that it is only those who direct and rule that should adhere to what is right. In an important sense, we all assist in ruling, or at least in carrying it out. The same spirit prevails everywhere—in high places and low places. It is only carried out on different scales and in different ways. If we have arbitrary power in high places, it spreads into low;—there is a mutual influence. Those below may do much to render nugatory the laws and teachings of those above. There are limits to the enforcement of laws, and many things fall rather under the spirit of laws than are directly ordered by them.

What is done in general society, then, has a great effect. It may render laws vain. In trying to do right on a small scale, we

¹ J. T. Coleridge, Tab. Talk, 75.

² Paley.

assist what is right on a great scale everywhere. We need not think we can do wrong and allow wrongs on a small scale, and yet reap the advantages of the rights we boast of and prize ; they have been undermined. We should not do wrong even to reach some fancied good. Even if a temporary good is got, it is nothing compared to a permanent and widespread injury. All are interested to put a stop to such wrongs. It is easy in *sowing time* to detect and prevent the sowing of bad seed, which *afterwards* we would require just to allow to grow up along with the good.

It will be said we cannot be perfect, and that no doubt is true ; but, then, there are degrees of perfection and measures of evil too, so that if we cannot reach perfection we need not make that a reason for going wrong without limit. That we sometimes err is no reason why at other times we should not do right, especially that we should not teach others and inculcate on them the right —we should see that it is our own interest to follow right as far as possible. It is no small matter to get people to be at least conscious that they are wrong. There are distinct platforms and degrees of wrong. We may have property respected, but fraud and deception still practised; we may have outward laws observed, but strict truth not followed. We may strive for the one, if we cannot get both. It is best when the right is honestly followed independent of self-interest, but we should not despise any of those degrees. They are separated by distinct lines from one another. If we cannot get one, we may get the next to it. To conclude a peace puts a stop to war, and is a great and distinct step, but it need not include good-will and the absence of angry feelings, friendship, and alliance ; these are higher, and may or may not come afterwards. Beyond slavery, too, there are many actual analogous evils. “We need never expect to reach a state in which there will be no evils to strive against.”¹

We should then always be striving to get higher and higher, or by observing lines of difference to prevent ourselves sinking lower and lower, jealously keeping what we have already got, though we fail to reach another step. It would matter little what was done among the foundations of a building so long as there was no meddling with what the safety of the building depended upon, for

¹ Milton.

the stones are rough, coarse, and irregular; so here it is of less consequence what irregularities are carried on so long as the great essentials of truth, morals, laws, and reason are not entirely set aside—the very foundations, as it were, destroyed. Even among those who break them there is regard to these very things, unless they are countenanced by some stronger party, or by the neutrality and ignorance of those standing by—when the thief need no longer conceal his theft, as it were.

Our part then is to contend for right in all these apparently more trifling or obscure matters, and all can lend a hand in that. We do not discharge *all* our duty when on great public occasions we support what we consider the right side; our more practical part is to be at all times, and at every opportunity, in everyday life, discountenancing the wrong and encouraging the right as far as we can, not allowing some to undermine those very things that others are striving to build up above. We will remember too how much the mere diffusion of knowledge, even without action, effects. There are times when it is difficult to know what course to pursue, and then often the only guide is, that though we do not know which of several ways to choose yet we are sure that such and such things can do no good, and there are also other things which we will not do be the consequences what they may. In doubtful circumstances small considerations incline us one way or another, and at such times much depends upon our general knowledge and opinions which we have previously acquired, and upon the care we take to watch for every indication of the right way. Experience too will teach us the remote effects of general knowledge, especially of morals.

In conclusion, the valuable point to be gained is the treating of one another better in ordinary everyday life, the taking more interest in one another, assisting one another, interfering, if absolutely necessary, in case of any wrong we know perpetrated. All this, in addition to what we have at present, or might have, in the shape of great public institutions and public officials appointed for much the same ends, as in hospitals, etc. These are good in their own place, and will always be needed. But they don't take in everything; they are for extreme cases. They would be necessary, in spite of all that could otherwise be done. It is wrong,

however, to put them *in place* of what we should do personally. At the best, it is hired goodness—may have its abuses, and cannot be altogether trusted to. Indeed, it is scarcely to be expected that anything that is to be taken in common, according to general rules, can be anything else than rougher than what we will sometimes need—not minute and particular enough. Payment of a tax or of a subscription should never be looked on as any equivalent for personal duty. It is a different thing, and, though often for much the same end, there is still a difference on minute examination. What is done officially is done by rule, and requires almost to be what we would call hard-hearted ; this is its tendency. There will be always something besides needed—something not included in the rules, nor within range of means. If, then, we think we have discharged our duty when these are provided, it will leave some, we might say, almost more hopeless than ever. The same remarks apply to everything that we think we can transfer to public officers or in part can. Better to look on such as *coming*, not in place of our own efforts, but in *addition*, for those outer and more extreme cases which we ourselves cannot properly overtake. Personal effort reaches further, is more minute, and is truer goodness and intelligence than any official goodness is likely to be. There is, besides, always a part which we cannot transfer to others, though there may be a margin where we may have more or less.

We could not be wrong, perhaps, in acting very much as if we had no such public assistance at all. We would then not allow any wrong on the supposition that it would otherwise be looked after. Everyone would care for and take an interest in his neighbour. No ill-usage would be allowed to go on, and nothing said till it reached an extreme. At present we have instances where the indignation of the public have led to riots;¹ but this not only is not the best way of doing justice, as it must always be liable to mistakes, but it only can apply to extremes that never should occur. There should be no ill-treatment long before it is such to attract general attention. All have companions and acquaintances to whom they can make known any interference with their rights, and this should be enough when proper common

¹ See case in North. Newspapers, Sept., 1876, and Oct.

cause is made in what really all are interested. It is not now and then a case of extreme indignation that is required, but a constant maintenance of the boundary lines or foundations of right. That extreme cases should ever arise is only proof that things are far wrong. We are not to be too secure, and trust to public institutions and public officers, etc., saying such and such things could not happen among us—remembering that the worst outward appearances of wrong may be away, and still the very wrong be there. “Let us hear no complaints” is a saying of a very doubtful kind, and “Let us hear all complaints” would be better in its place.

“*Injustice*” is “that by which a man tries to appropriate more than his fair share of the objects of desire, while he tries to escape his fair share of the objects of aversion.”—*Aris. Eth.*, 5. 2, ap. *Grote, Frags.*, 201.

CHAPTER IX.

MANNERS, AND THE LAWS THAT MUST GUIDE THEM TO SECURE FREEDOM
AND EQUAL JUSTICE TO ALL.

The law of manners more than benevolence, refinement, or a knowledge of mere rules. The general rules of Christian society are fair and just, and should not be despised. Causes of evil. Two opposite opinions of society. Outward correctness involves much. Greatest freedom in the observance of general laws. Natural and artificial. There should be both. Attention to what we do. Differences instead of inequalities. The middle includes all classes. A bond of union in all adhering to principle.

"Quid leges sine moribus vane proficiunt." (Which laws without manners in vain attempt.)

IF there is truth in the sentence placed at the head of this chapter, the intimate connection of manners and laws must be allowed. But this connection requires consideration to be seen. It has been occasionally hinted at in the foregoing chapters, and its consideration directly follows from what has been said.

It may be thought that all will learn manners as they enter upon life either by experience or from instruction, and therefore no need of studying them; but experience is often, as the phrase is, *dear-bought*, and instruction is often the barest information as to mere rules and outward conduct, calculated no doubt to answer the immediate end in view, but wholly apart from any real knowledge of the principles they are based upon. This cannot but be accompanied with a great abridgment of liberty, and is scarcely consistent with justice to all.

There are many books that treat of the rules of manners and etiquette strictly. They generally also give excellent advice as to the foundation of politeness, of its springing from true Christian feeling; but something more than even this is still needed. There is a large margin or interval between these left where we might say there is neither rules nor order, but a blank altogether. No doubt, nothing can be of more importance than true Christian feeling: it forms the broadest and deepest foundation. "No rules

can supply the place of true and sincere politeness" animating "the whole conduct." "If it is only the rules that are known, they will be laid aside in private, as in the family, and thus much unhappiness will be caused among those who may possess many estimable qualities."¹ But here it may be said, on the other hand, that if we become too general, however excellent the principles, we lose sight of the subject considered, manners or the rules that carry out these principles into action. In short, there are extremes in both directions. Thus, the same writer complains that the "instruction" given is often like teaching fine "phrases in a language not understood," a mere "varnish." But the essence of true politeness is—"benevolence," "delicacy of mind," "directed by a solid and refined understanding." "All the rest is mere arbitrary custom," which varies at different times and in different places. It is the rules or laws, then, that should "direct" the understanding that we have to seek. This is something more than mere benevolence, or "delicacy of mind." It is also more than "arbitrary custom." Something may be objected to the saying that the *mere* "rules of politeness" may be observed "while violating its essence, and doing an injury to a person." When a person is injured there is generally a breaking of the rules of politeness. It is hard to say that a person can be injured by adhering to them; their very intention is to protect from injury. A person may be injured otherwise, but so far as they go these rules are a protection; they are at least an acknowledgment and homage paid to what is right. Benevolence and delicacy of mind is one thing, manners another. The latter are not meant to exclude all who are not benevolent or very refined. Rather it might be said the opposite. They are intended to admit such, provided only they adhere to the rule or law of manners, and thus neither injure nor offend others. No questions on these subjects are raised, while room is left for after improvement.

In the main, the rules of society must be admitted to be just and fair. Their excellence consists in this fairness. They are compatible with both freedom and strictness;—they are not so strict as we may find in more restricted societies, and at the same time do not, from a want of strictness, keep from society those

¹ Miss Bowdler's Essay, p. 105.

whose morals, principles, or feelings, do not agree with those of others. This is an important principle. We may think that such strictness as would drive from society all who did not come up to a certain high standard right. This standard we may naturally be inclined to raise higher and higher,—as if we could not be wrong however high we raised it. But this is to apply to general society the principle that should regulate an association for particular ends—the very end perhaps of securing the exclusion of all not of a certain way of thinking. It confounds things that differ;—the Church has *its* end, and other societies theirs. It cuts off too entirely hopes and opportunities of amendment;—destroys that field of usefulness which should be open for those so inclined. Nor does it agree with scriptural principles; for it is flying from an evil and not overcoming it. To ask no questions “for conscience’ sake” should be the rule in many cases.

We have said that it is an important point that the rules of society are founded on fairness. Some, holding in view all the wrongs, abuses, and hollow deceptions that occur in society, will not be inclined to admit this. But these wrongs and wants exist spite of these rules, which rather tend to check them. Nothing has ever fairly been brought against the general rules themselves. It is this that makes the difference between modern or Christian society and what formerly existed or might still be found. Many of the best men have never objected to these rules as being unfair or incompatible with real goodness. It is the more necessary to keep this in view because some for one reason, and others for another, are inclined to make light of them as if of no moral consequence;—either as not being serious enough for them, or their observance of no importance, thinking that fairness and good-feeling can be better observed and shown without them. Of the mere outside rules this may perhaps be partly true if nothing else is meant, but we have only to add a knowledge of their real foundation, instead of despising or setting them aside altogether, in order both to see their usefulness and be convinced that without them we can neither act fairly nor avoid confusion.

Nothing often more effectually prevents any chance of amendment than our mistaking the cause of an evil, and attributing that

evil to what should be the very means of its cure—it is not part of either the evil itself or its cause. It is true that it is often vain to follow the abstract right, and men sometimes are driven into irregular courses in self-defence in avoiding evil. But it is a great pity if this leads to a misunderstanding of the abstract right and wrong itself; for time brings changes, and circumstances alter, and there may not be the same reason, and of course the same excuse, for such conduct that there was before. The evil that gave rise to it may have ceased; or it may now be quite preventible if those who should throw their weight in favour of what is right would do so; or what is perhaps the real want, if those who should check some wrong would supply what is wanting. This is especially applicable here; for in those to whom manners apply we may find a mixture of good and bad, either at different times or in individuals. They are meant to include different kind of people, who may vary in course of time, or be mixed in different proportions, just as happens to be. In this sense it has been said, "Good breeding is an expedient to make fools and wise men equal,"¹ as well as to keep them apart.

This mixture is the reason of the two opposite and inconsistent opinions we find so often expressed regarding manners and society. First, that society is a kind of "social tyranny,"²—that it consists of "deceptions and lies,"—is full of "sickly forms"³ and "selfish rules,"—is made up of mere customs and is too refined,⁴—that it destroys everything natural and gives rise to a "mischievous uniformity"⁵ as it spreads with the increase of wealth and luxury. Manners, it is said, "make the man," and often a greater impression is produced by voice and action than by what is actually said. Much of what is here objected to refers to this; but what is here treated of is what is actually said or done—that is, the law of manners. And after all it is what is actually said or done that must be the main thing—the ground work. The very seeing and speaking to a person involves much; there must have been *some* acquaintance, some reason for it, though only the merest civility were met with; that is, there must have been *some* rule or law to

¹ Phil. of Manners, p. 42.

² Al. Smith's Ess.

³ Tennyson.

⁴ Tuckerman, Ment. Portraits, p. 170.

⁵ Wilberforce, Pract. View.

guide it. When people meet and speak there is always the opportunity of saying more or less of one kind or another; we may use it as we choose for good, or bad, or indifferent. Why blame it if we find we get nothing but some of those evils already mentioned—mere refinement and deception, or worse. These are only *what we choose* to build upon a good foundation. We must have some rule to go by, or society could not exist, “It would be like a rope of sand,”¹ and we should not blame the mere rules, which generally are founded on the right law, and appeal to our reason for support. It is this “reason for the rule” we should seek to make better known, and be prepared to carry out always, and in every place, independent even of rules and customs, or to endeavour as far as we can, to bring these into harmony with it if they are not;—“they “may control manners or may yield to manners.”²

But second, society has been described in a very different way as when it is called “a meeting where every man forgets himself for the sake of the rest.”³ “Religion refines the manners, it does not corrupt them.”—Christianity “does not dispise its followers to violate the proper rules of social intercourse.” . . . “There is no religion in violating the rules of good-breeding.”⁴ This is accompanied with the acknowledgment that “the secret of true politeness is benevolence,” and is produced by Christianity. The same has been said by many others. Much even of what is said of its affectation, hollowness, etc., tells in its favour, as when it is said merely to “restrain the sallies of passion,” and to compose itself to a standard of “not offending those who profess the same rule of external conduct.”⁵ We should not expect too much in general intercourse, or else it becomes something else, as has already been pointed out. Is it not a great thing to get one rule of outward conduct where none give offence, where the passions are restrained? Must not this be the foundation and first step to anything better? What harm does it do if worse only would take its place? At

¹ Edmonston, Self Gov., p. 286.

² Browne, Ess. Manners and Prin. of the Times, i., 65.

³ Life of Blanco Whyte, ii., 29.

⁴ Barnes on Eph. iv. 3, and 1 Tim. iv. 16., and Gen. Letts.

⁵ Lord Orford in Letts, Eliz. Hamilton, ii., 258.

the same time these rules are often violated when complaints are made, but it is the violation only that should be blamed, for they themselves are calculated to give no offence.

This brings us again to what we have mainly in view, the confounding together of right and wrong—the treating of the whole too lightly, as of no great importance, as if nothing more were involved than the mere amusement of society, and it depended wholly on custom, fashion, and the voluntary opinions of those who had no serious object in view. There is room for much of this in the mere outward manner or way in which a thing is done and in what is admittedly left in everyone's power to act in as he chooses, but the hard substratum—the bones as it were—consists of reasonable laws, in violation of which lies the evil of which we have any right to complain; for vain to complain of all men not being the same as ourselves. It requires attention, however, to see that they are not acted up to.

It is part of a general proposition that may be maintained, that there is greater security than is generally thought in *that mere outward correctness of things* which any one may see on careful observation. There is almost invariably some little thing outwardly wrong where more serious evils lie concealed behind. It is the difficulty of getting this careful observation that permits many evils silently to go on for long. It is of course all the more helped by "mere appearances" being decried as nothing—as hypocrisy, acting, deception—mere officialism, routine, custom—a form that must be gone through; that the only thing is what is inward; in most cases it is *benevolence*, etc., in the case of a merchant it is to be thoroughly *honest*, though his affairs be in confusion. None can dispute the excellence of these two words, but they are too general; and they ought not lead us to think that there is nothing moral in the other things, and yet that is the tendency. Really to carry them out into practice, we must have laws and rules, and the breaking of these, therefore, can only be the same as violating them; that it is done inadvertently or through ignorance, though it makes the offence slighter, does not alter what is really done. We may say that "ignorance is bliss"; but then it prevents improvement, and is the cause of mischief. Most prefer knowledge with its greater responsibility. It would

be in vain to pretend to benevolence if we knew our doing or not doing something implied the very opposite.

In many things we admit this outward correctness to be a guarantee for everything else, as in a will which must be signed and otherwise right; law-papers of all kinds must be the same; proper receipts must be produced; accounts must balance; receipts on one side and payments on the opposite, at least some acknowledgment for everything. If a person does not do this, but trusts to his memory, very soon his accounts gets into that confusion which generally accompanies failures of all kinds. There is something of the same kind in the law that regulates manners. If we follow merely our own likings and dislikings, do certain things just as we feel inclined, or forget to do them altogether, we shall throw society into confusion. Generally speaking there should be a balance, as in accounts, one action having its corresponding return or acknowledgment, if not always of the same exact kind still something, like a receipt for money; not a loose dealing, things done irrespective of any law or rule,—“overleaping the bounds of right.” A greeting should be returned, a question answered. To omit any step is like omitting to enter a sum of money in our account books; it destroys the continuity and equal balance, or it is like the one broken link of a chain. That in society all this is left to our own voluntary choice and has no legal penalties like the other, does not make it less real. Heedlessness, carelessness, backwardness, thinking it of no manner of consequence, want of time, all contribute to the omission of what we think may be easily done at any time, but which, if not done at the proper time in some cases, should not be done at all.

It will be said, Separate the more serious part of manners from what is more generally meant—“It is only his manner,” the way in which a thing is done: that cannot be of great importance! But the word generally is used to signify more, and in truth we cannot separate the two things, the manner a thing is done always implies there is *something* said or done. Thus I may say I did not call upon a person, because it was a mere form; of no consequence, for I had nothing particular to say. But, however true that might be, the consequences are not nothing. The parties not seeing one

another may almost forget and cease to have interest in each other, and, without taking it amiss, it may give rise to a coolness in the one, who may suppose that the other has formed new acquaintances, and may himself do the same. If the mere manner affects the mind and feelings, much more will what is said or done or not said and done do the same. The first may be mere feeling, but the second makes the actual truth of things, is the rule and law.

It is the greatest amount of freedom consistent with law that we are seeking, and there is generally too much restraint and sameness, more than need be according to fair rules. Dull uniformity and insipidity, we have seen, is one of the evils laid against society. We wish, on the contrary, the least interference with personal rights and differences—the not having to drop what we like, and yet be able to mix with others of different tastes. What we can get in this properly (and we should wish for nothing more) is just what the law gives us. It is it that forms the fair mean between the dulness and sameness of mere form, and the confusion and trouble that must spring from everyone indulging his own personal likings and tastes, without regard to the one uniform rule the same for all. Do not let us extend too far either the one or the other; especially, do not let us extend the rules, customs, and fashions of social life, or indeed of any department of life, beyond their proper sphere. This is the best rule that can be given for leaving to others and obtaining for ourselves that personal freedom which all like; for we cannot well directly regulate this—make exceptions in some cases and for some persons; that is in its nature unfair and cannot really be done on any general scale, new events arising every other day, so that we must have uniform rules and impartially keep them, for if the keeping them allows freedom there is a corresponding injury in neglecting or breaking them, whether we directly see it or not. When men can trust to these general rules being adhered to they can go where and do what, otherwise, they would not. In proportion as their meaning and value are seen they will be acted up to, and then there will be greater freedom for all; and this not only in regular society where they literally apply, but beyond it, in that margin where there is often no rule at all; and they will

also cease to be mere matters of form and etiquette, used in an unmeaning way in the dark. Though this of itself, it may be said, is so far right, and the best we can do in ignorance of better ; yet when there is nothing else, and too much is made of them, it leads to the reality also, of which they should only be the means, being despised and set aside, as if there were nothing but acting and hypocrisy. Instead of this we should know their intention and the law on which they are based, so as to be prepared to carry them out in all circumstances.

The variety we find where there is freedom and not too much restraint is connected with many acknowledged excellent things, such as individuality, self-reliance, independence, development of character. It allows what is natural to have play. Nature, as in the arts, is the greatest fountain and standard of what is excellent, to which we should always be recurring, and the excluding of which is the cause of a want, sameness, or even absurdity. Before the great Revolution at the end of the eighteenth century we are told that manners had become highly artificial. "The higher classes were too artificial" to present any "variety of character." "There was none of the variety and exuberance of nature ; because there could be no nature in such a society, which was guided by one uniform system of artificial rules, and directed to one class of selfish purposes."¹ Others tell us that the sight of any natural object was a relief. The selfishness we suppose was the exclusiveness ; otherwise there was much we might call good, only there was a *want*, and mere fashion and custom taking the place of law, giving rise to a shallowness and absence of seriousness. And there may be too much of even a good thing, or at least too much of one thing. Society may be said almost to fight against what is free and natural, and to try and reduce everything to sameness. And certainly society is inconsistent with *too much* freedom—could not exist, its very nature and meaning being destroyed. To hit the proper medium, the limits, may seem difficult, or rather is apt never to be thought of. But these will be recognised and observed in proportion as we look deeper below the surface and regard the meaning more than the outward form. It is the not doing this that allows mere artificial rules, which can pretend to no real law,

¹ "Treat. Prog. Lit. and its Effects on Society," 1844, p. 57.

to go too far, to be insisted on, and their disregard to be considered as a great offence. The injury done is rather indirect, however, arising from the exclusion of what would limit it. "Fashion" has been styled a despot, reigning with "usurped dominion" over men, and "moulding" them in everything so as to make them mere actors and fools.¹ The evils from this are great. When too much care is taken there is too much delicacy. Those who never go into *general* society may escape trials but cannot learn to bear them, and must be weak. Better and proper to run the risk of occasional roughness or disagreeableness. Everything valuable is obtained through some risk. It also leads to irregular expedients to get what we should get in the fair general intercourse based on general rules and law; and it need not be said these expedients have their evils too. What we obtain in the natural course of things is the right thing. All the rest is more or less like artificial flowers, which look well merely at a distance. It is evident that they must derange things and prevent much good, for who will trust themselves for what they cannot count upon according to some general law. Even in a foreign country a person would think himself entitled to count upon the observance of certain general laws, though he could not know particular customs and fashions. But artificial rules and nothing else set aside all these; and like all artificial rules they give rise to great sameness and abridgment of liberty; each one being afraid to go ever so little out of the customary routine; mere custom becoming the law; and, indeed, no good arises from violating it, unless we know what we are doing and are acting reasonably. "Many, indeed, are the ill-consequences arising from the misapplication of politeness; in one it introduces an effeminacy and unmanliness of character; another accustoming himself to varnish over things in their nature ambiguous, insensibly finds his perceptions of right and wrong become less clear and distinct; the invariable lines of truth and reason are confounded; and the moral sense itself becomes languid and inactive." . . . "There is a period after which all innovation becomes barbarous."² That is, over-refinement ceases to be civilization. Another says, "The degree in which individuality of life and opinion in man" is respected, "regarded as natural,"

¹ Cowper.

² Brit. Ess., Microcosm. No. 17.

"might become a just standard of civilization."¹ We should retain then as much variety as is proper.

To "be natural" is the advice sometimes given ; but while thus commanding what is natural something more requires to be said ; for otherwise it would only be telling people to indulge their natural inclinations. It is like natural plants and trees which exist in a state of nature, but never so beautiful, nor yielding the same amount of fruit as when trained and pruned. It is only a very little, however, of these that really does good, and it is not anything which we can see or notice, too much would destroy everything. We might treat them too artificially, take them into our houses, depriving them of the air, breezes, showers, and sunshine, causing the branches and leaves to flourish, but destroying the fruit. We might even think to improve their beauty, not by taking away here and there an awkward-looking branch, or one interfering with other trees or shrubs, but by cutting them into different mathematical shapes wholly foreign to their nature and use. We cannot, however, with plants depart very far from nature without killing them altogether ; but it is different with manners : there is almost no limit to the artificial, unnatural, and absurd customs we may adopt. Let there be the same in manners as in pruning and training plants, and then we may be natural and at the same time avoid those evils which that alone would leave room for ; what would injure others or be in any way offensive would be pruned off. In our free choice of action we would choose that which was most fitting. It is no interference with our natural freedom and instinctive impulses, when we voluntarily choose that which is unselfish and not injurious to others. This to be natural and at the same time artificial—or whatever word we may choose to describe what is not merely natural alone, like wild flowers, shrubs, trees, and briars. This agrees with another advice that might seem to contradict the former—"Not to be quite (or entirely) natural." It is to be reasonable.

Certainly what we mean by the word gentleman in its strict and more limited meaning, as when we say that one is a gentleman, in contrast with one who might equally be so, is, that he is more careful of his manner, that he thinks what he is doing.

¹ Leopardi in Tuckerman's Mental Portraits, p. 166.

Apart from manners altogether, this is an important matter. It prevents mental confusion, and gives that coolness so valuable in all things. It gives a value (we may add, a pleasure and interest) to what otherwise would be trivial and annoying. In business, and of course in other things also, it is the quickest way in the end, in agreement with the proverb. To disregard this—to have no care, no method, or no meaning—leads to a waste of *time*, confusion, or distraction even, and thus, instead of enjoyment, there is harassment. Nor need we think that this is to be more natural and free than the other. It is as little really natural to take things carelessly and confusedly as the reverse. There is at the same time another extreme in doing any particular thing in a way that is not natural—in a way that no one would think of—and being very ceremonious, or as if acting a part we had been taught. There is a middle ground, and from it we may tend two ways. To pay no regard to what we are doing, either for our own sakes or for that of others, if it is called natural, is not manners. To be always designing something, and in any way showing this, is wrong too, and not much different. The end in view is generally plain and simple enough; and there is a plain straightforward way of doing everything. The *same thing* may be done, and yet one person be acting without design, or any particular meaning; while another may have designs that throw into the shade the act itself. In general, we have nothing to do with such meanings or no-meanings. The simple act speaks for itself, is the standard and makes the truth and the right and wrong. Secret meanings belong merely to a person's intelligence, etc., and however important should have no effect upon our manners. No doubt we wish to know a person's character, but in general that should be apart from matters of general intercourse. We say in general, because there are times and places—as in clubs, societies, classes, etc., for particular purposes—where express differences are intended; but to carry such difference beyond these is unfair and an abuse. Let the same simple act include a great variety, and not exclude those it should not. Propriety consists in performing the act in a direct manner: to do it awkwardly or with much useless ceremony, delay, and trouble—the very reverse of direct and natural—are neither of them a mark of propriety.

With the vexed question of who are gentlemen and who are not, we do not meddle farther than to say that, of course, freedom requires as wide room to be left as is consistent with any meaning or distinction in the word at all. We seek the lowest and fundamental rule. The term has a distinct enough general meaning that all understand, but includes distinct varieties. These, when anything else than the most general meaning is intended, should always be accompanied with the descriptive additional term. This has an important bearing on freedom. That one is more gentlemanly than another does not make the second no gentleman. Three judges in a court of law held "that a man whose occupation was 'not sufficiently definite'¹ might make use of the term for want of a better." It might be said that, as a general rule, work makes the distinction. All are sometimes said to be workmen, even the highest in their official capacity are not styled gentlemen. Every one has to lay aside his work of whatever kind. A professional man we do not expect to be speaking of the details of his profession in general society;—and the details of many are disagreeable to others. Thus all have to lay aside their work and the dress that pertains to it, and adopt the dress common in general society. "Let us have the greatest diversity of occupations." . . . "Men may work in different departments of life, and yet recognise their brotherly relation." . . . "I see not why such a man, however coarsely, if neatly, dressed, should not be a respected guest in the most splendid mansions, and at the most brilliant meetings."² There is only one style of dressing nowadays. The times are past when a man was distinguished for the cost and splendour of his clothing. It is easy for all, therefore, to conform to this. Perhaps the following conveys the highest, and, at the same time, most general meaning of the word, and which need not exclude any:—"Gentility is neither in birth, wealth, manner, nor fashion, but in the mind. A high sense of honour, determination never to take mean advantage of another, and politeness towards those with whom we have dealings are the essential characteristics of a gentleman."

¹ In Court of Common Pleas, 4th December, 1875.—*Papers.*

² Channing's Ess. on Eleva. of Working-classes.—In Griswold's Prose Writers of America, p. 168.

Without equality what sociability can there be, as has been said. But it is equally true that all cannot be exactly the same. There are old and young and other differences that we should not forget. One man is learned in one pursuit, and another in another, or a third may be altogether ignorant. One has travelled, another stayed at home. To know these and any other *differences* need not injure equality. The great thing is to lay aside striving after precedence, the cause of envy, and diverting the mind away from more rational subjects. In scientific pursuits and meetings, perhaps, we see this equality best exemplified where the attention of all is fixed on the subject in hand; and nothing to hinder the same in other things. In social and civil life in a wider sphere there is still more need for the recognition of mere differences. It is so obvious that in some cases all cannot be first that this need not cause any dispute, some small trifle determining it in most cases. The maintenance of those differences may be said to be the foundation society, for no one would like his own pursuits interfered with, or disrespect shown to them in any way, still less does anyone like anything he deems quite personal to himself meddled with. What these rights, etc., are, as already said, are just what he can fairly and reasonably claim, according to the law of manners. The abuse of liberty in public is guarded, it is said, by ceremony, and in private by politeness. And we find an eminent poet complaining of, and denouncing this abuse of liberty, in short, of bad manners—"Such philosophy runs the risk of becoming extinct among us if the coarse intrusions into the recesses, the gross breaches on the sanctities of domestic life" . . . "are to be regarded as a vigorous state of public feeling favourable to the maintenance of the liberties of our country." . . "The wise and good" . . respect "that jealousy of familiar approach which, while it contributes to the maintenance of private dignity, is one of the most efficacious guardians of national public freedom."³

Personality is connected with much that is good, and is interfered with by mere fashion and uniformity. What can we have in place of these but a deeper knowledge and general opinion; for we cannot have civil laws for these things, though on the borders

³ Wordsworth, Let. in Blackwood's Mag., Vol. i., 264.

they very often come within their pale. We should not be at the sport of mere fashion or any chance opinion. We should be able to appeal to the right rule—to the truth of things—and others should discountenance misrepresentations, set right misunderstandings and inform ignorance, thus keeping in countenance what otherwise would be condemned; the consequence of which social condemnation is so great as to deter any from even the slightest approach to it, and hence the power it exercises is great and arbitrary, and, like all despotisms, should be checked by just laws.

It is obvious that the greater variety we include, the better for society widely diffused, that is for the greatest number, for what is most general and passes current, or should pass current in most places—always, of course, in consistency with good manners. There should neither be too much ceremony, etc., to keep people too far separated from one another, or such an absence of all regard to law and rules as to destroy personal freedom. There should be nothing unlawful nor unreasonable on the one hand—thus raising us above what is profane, or low, in a bad sense, or worse—nor on the other artificial rules that cannot be generally known. In the middle there is liberty of choice, and thus the greatest variety may be included. There is an important point, as referring either to our freedom or to our behaviour, in those things which can be taken in either of two ways. When that can be done, two opposite parties may be suited, for we may leave both to take it as pleases them. If one calls a thing black and another calls it white, both may be right, if it is just a mixture of both with no line of distinction between them. Middle things thus suit two parties:—that is, take them either way you choose they will do, *provided nothing is done inconsistent with what belongs to the middle*. This is different from thinking that they belong entirely to one or another, and taking them in such a way as to prevent those on the opposite side getting a share. We must do nothing to fix them *one way only*. It is to leave liberty of choice—the *liberum arbitrium*. Of course, this applies only to the precise matter here treated of, for in other things, perhaps in most, what is right consists in fixing *on one way or another* for certain.

The middle is the meeting place, the common ground, and

though there may be many subordinate divisions, classes, or differences in it, still in the main there will be what should suit all. Beyond it there are those who disregard all law and rules. Civilly they are called outlaws, and in social life must be much the same. But these are very few and exceptional, for a person does not lose his rights because he is what is called out of society. Nor does this exclude from the great middle ground much that is debateable, or what is matter of fashion or opinion. A person is not excluded for not complying with a mere custom, for that is not real law; though at the same time it should be said that customs often involve what is real, so if we set aside anything because it is a custom, we may be omitting a reality too. To make a call may be customary, but it involves more, for it retrains an acquaintance, and gives an opportunity for giving and receiving information.

It is always a great point to have nothing vague or uncertain, and here there are distinct enough lines bounding the middle class. Ceremony or ceremonial acts on the one side are distinct enough; on the other it is the same as if a person were unwell, when he is excused at once from what is usual both in social and civil things. Even if he is deceiving us we are equally excused for another reason for excluding him from what is usual. This applies, or may be applied, as the only rule to all cases; for a person does not exclude himself though he does not go into society, or comply with many customs, fashions, etc., etc., so long as he attended to the reality of things. Thus one man may change his abode, leaving a direction where messages, letters, etc., are to be sent, another does not do this, or forgets to do it. In the case of the first no one is excused from either sending anything or doing anything else, by saying he had changed his abode; but he is so in the case of the second—much the same as if he was incapacitated by bad health—who must bear the consequences of his own carelessness if it is forgetfulness, or if it is done on purpose it might be the same as absconding or concealment; in civil law it is outlawry, and in other matters it is something corresponding. It is thus only in extreme cases a person is *entirely* without rights, even in matters pertaining to social life, where we are most ready to set people aside. A person without property is entitled to the protection of any he

may acquire at any time, and of such trifles as he has about him ; we do not make any exceptions. It is the same in social and civil life. We cannot simply say a person is not in society and straight-way act towards him as if there were no law at all, as being quite beyond the pale. Strictly, no man can be quite out of social and civil life ; he must see, meet, and speak to some every day—more or less. Thus whatever opinion we may have of others they are entitled to the protection of law, in its broadest sense, whether civil or social. In short we cannot make any line of difference. It may be said that this is civil rights and not manners. But the two become interlaced and cannot be separated ; and there are many things in common society is founded upon, and supported by what is civil. Notes, letters, meetings, intercourse, intimations, are all common, and may be for business or pleasure. The law and actual reality is the same for both, though the civil law annexes penalties for their neglect only in some cases where legal consequences follow. There are plenty of other consequences, however, though we do not call them legal. It is not likely that we can omit any duties and there be no consequences. Even if not duties, we must make up our mind to reap as we sow ; and one of the evils in matters connected with manners, which we are disposed to consider trifles, is people expecting still to retain the same advantages though neglecting such rules and laws.

There is a bond of union in all acting on the same principle. "As to the necessity of cultivating fixed principles, as the ground of behaviour in society, and of not always acting a part, . . . reason, religion, common-sense, at once decides."¹ This gives us both freedom and union. It is different from being tied as a slave to the mere customs of society, to affectations and "seemings of principle," losing "the distinction of reality"—as another has said. It is a "principle of right doing" even "against society itself, if that is necessary, instead of being only governed by the market, profession, society, or church."² It is, in short, to act as reasonable beings instead of blindly following and of course being tied to customs we do not know the meaning of.

It is, however, here again to be said that we must come to par-

¹ Dr. Heugh, Life, p. 55.

² Bushnel, Moral Uses of Dark Things, pp. 389 and 294.

ticulars, and take care not to make this just a reason for setting aside all rule, law, or customs, even under pretence of acting on principle and reason only. For customs, as we have seen, generally involve something real; and if they involve nothing wrong, why give needless offence in indifferent things by setting them aside? We may often see a reason and meaning in them, and without some higher reason should not neglect them. To see a meaning is only something *in addition* to what the blind followers of custom have. It gives us greater liberty, a feeling of security, and enables us better to fulfil our duties; we are able also to act upon them in all times and in all places. They become more and more a protection to the weaker party, and to those not in places where they are most commonly observed, that is to those not in society strictly. Without this knowledge much is lost. Only exact equals can associate; where there is any difference, to prevent risk of mistakes, advantages are rather let go. Perpetual discrimination to separate right from wrong, and to understand differences, is what is needed; real knowledge only can give us this, and that it forms part of morals and religion should go far to secure it.

These are the more general considerations; but it remains to consider specially some of the rules commonly allowed, and so far acted on practically, which carry out these principles. The rules being, as has been already said, quite fair, we have only more seriously to carry them out instead of following them or not just as we find convenient, or rather perhaps viewing them as mere descriptive terms and not at all as moral rules to guide us, except perhaps as far as they may happen to coincide with fashion.

There is therefore not much new to be said on the subject, but merely to get what is too often made a matter of caprice to be viewed and felt as something moral.

"*Just behaviour* is equivalent to the observance of law, generally. *Unjust behaviour* is equivalent to the violation of law, generally."—*Grote's Frag., 199, Acc. of Aris. Eth., 5. 1.*

CHAPTER X.

MANNERS AND KNOWLEDGE.

To make things known the main end of the rules of society. Phrases that imply this. What ought to be known. Secures individuality. Importance of rules indicating this. Doubts. Secret knowledge an unfair advantage. Irregularities. Morals involved. Outward appearances. Scripture rule.

"Ponder the path of thy feet."

—Prov. iv. 20.

IT is only what we might expect that the extended intercourse—to say nothing of other considerations that have always existed—of the present day requires greater attention to be paid to the *more general* principles that regulate society. Politeness, etc., is too apt to be confined to the higher and more settled ranks of life; and thus to be too ceremonious and clogged with artificial rules. This does not answer for the greater freedom—either of a more general intercourse, or of the middle and lower classes. Ceremony and rule are not suited for such circumstances, and yet neither will a total want of any rule or principle of guidance answer. The complaint also sometimes heard that a person "could not find his place in society" naturally leads to inquiries of the reason—of what are the fair rules, in case any are getting too much liberty, while others are getting too little.

When we consider the meaning and object of all the rules and forms of society, we shall find that to make things known is what in the main they have in view. In this is involved a great deal of what is right, both as pertaining to the outward and natural order of intercourse in keeping everything agreeable and smooth, and also much of what is truly moral. We may doubtless have much of what is outward without the latter; but, from the want of the latter, it must also be admitted that a great deal is altogether lost to society. That is to say, we might have more society if rules and the principles they are grounded upon were better

understood ; did these contribute more to everything being correctly known that should be known, than which prevents a more general intercourse would then be removed ; and this would be a blessing not only to those who directly gained the benefit of it, but to those who now apparently enjoy it to the utmost. Politeness "is nothing more than the knowledge of the human mind directing general benevolence."¹

Nothing has reached its full measure of goodness so long as some part that belongs to it is wanting, however insignificant and secondary we may think that part. It will be more than a want merely. That which deprives whole classes of intercourse with one another, and numbers of social intercourse altogether, shows something wanting that would contribute to the advantage of those who do not directly feel its absence. That there is such a want at present is proved by the universal complaint of the evils of the very best society. It is obvious, for example, it must deprive us of that *general intercourse* which is necessary if we would acquire *general* information, and not confine our knowledge and experience to our own class merely. To do so has an unfavourable effect on the very manners for the sake of which we thus act. Books that expressly lay down the outward rules of manners and etiquette tell us, "A man will never be a perfect gentleman that lives only with gentlemen ;" that is, who confines his intercourse too literally to those in precisely the same circumstances as himself. If it is said that we may have intercourse with all and sundry in other ways and on other occasions, it must be granted that this is true, but enough remains over and above this to show the necessity and importance of carrying out further the fair rules that ought to regulate social intercourse. We may over-refine society, make it too negative, and deprive ourselves of everything most valuable ; and these will affect things beyond society strictly. "Show us a series of works of genius, in prose or verse, in which man's being is so illustrated as to lay it bare for the benefit of man, and the chief pictures which they contain drawn from select society. There are none such ; and for this reason, that in such society there is neither power to paint them, nor the materials to be painted."² We will not stop to consider

¹ Dr. Th. Brown.

² Blackwood's Magazine.

what the other modes of intercourse are, or may be. Some of them are irregular and exceptional, and benefit only the few who have recourse to them. Others are connected with business, which is indeed the great source of intercourse that makes up for any wants in society, and without which the present evils would be much greater. But this, as already noticed, is confined to *some* only; it also leaves out families. Such intercourse is of a different kind. There is, at the same time, an obvious selfishness in it we should be on our guard against. In short, *too large an outfield* will be left, where everything disorderly, with their attendant mischiefs, will spring up. It is not by *limiting* our rules we will cure this disorderliness, but rather by extending them according to what ought to be their fair foundations. This is the only right remedy that will answer; everything else is mere expedients that are partial, temporary, and inefficacious. It is what these foundations are that we consider.

Things known and not known. Under this comes such phrases as, first, *Bound to know*; that is, there are some things which every man *should* know. If he pleads ignorance, the other party may say that it was *he* who was bound to know, and therefore it is *he* who must bear the injury. In this there is much of strict law. There is some injury; who is to bear it? It is the one who was *bound* to know. Second, *Duty to know* is not very different, except that it implies more of what is moral. It was our duty to have used the means to know; the not doing so is a moral fault. This may be *indirect*. If a loss or injury occurs, when we come to consider who is to bear it, we cannot say *we* are not, simply because we were ignorant of the circumstances that gave rise to it, if it can be shown that we would have known had we been attending to our duties in other things, though these apparently had no connection with it. It may, however, have been our duty to know more directly—to have asked, etc. In these cases it is *we* that must suffer the consequences. Third, *Might have known* is more doubtful. Another party is entitled to think that *perhaps* we know. If we do not, it was neither our duty nor were we bound to know. We cannot count upon such things being either *known* or *unknown*, and of course ought to act on that supposition. This is the great middle region, where we must keep ourselves

free and in doubt. To make a mistake gives rise to mischief—as when one acts upon supposition of something being known for certain which is not; or blames others for not knowing, and makes claims for injuries in consequence; or, if nothing so direct, as in social matters will generally be the case, still he expects others to bear the blame, to get the discredit, to yield the precedence or preference to him in consequence; or, if nothing is said at all, even a mental misunderstanding will have its effect in interrupting the harmony of social feelings. The perfect freedom of society is involved. There is a natural tendency for the influential, the great and powerful, to *insist that things are known*, and to take everything according to that rule.

Fourth, It is different with *things which one is entitled to count on as known*. This refers to such common matters as the *news of the day*, which it is supposed are generally known. This is implied in the very word *publish* used in reference to them. Of course there can be no obligation to know them: but neither is it right we should not know them—that we should not use the ordinary means to ascertain, etc. On purpose, to use means to keep ourselves ignorant, puts us flagrantly in the wrong. What is known in this way—published, as we have said—is a fair subject of discourse. Though not bound to know, another is entitled to suppose that the chances are in favour of its being known—this depending, it is obvious, on the nature of the case; ignorance in some cases might imply something that could not well be in the ordinary course of affairs, and therefore either there must be pretended ignorance or some concealment on purpose. This would have an injurious effect on society, for it would naturally give rise to suspicions, and these never can be excited without at an accelerated rate causing other evils.

There are other things besides the news of the day which should be known as generally in their own sphere. To speak of anything that ought not thus to be known as if it were is to commit a great fault against society; it is to speak of what may be secrets, and unless checked may be repeated and spread. The injuries thus done are various, and may be serious. They are in violation of this rule; for they are not things that have been published, and so we are not entitled to count upon them being known. Thus,

in regard to persons, a man's individuality consists very much in what is known and can fairly be told of him. To make mistakes, or purposely to misunderstand, cannot well be anything else than injurious; for, even though well meant, such deceptions are apt to cause greater future mischief. Better in the long run when truth is made the guide in this, even independent of those serious moral considerations which no rules, appearances, or excuses, made for the sake of society, should ever set aside, and anything requiring which ought to be viewed as wholly antagonistic to the first principles of Christian Society. Once we forsake strict truth as a guide, the great barrier has been broken down that should prevent error and confusion. It is too apt to be thought that this is a vague, undefined region, in which we may act as we please—that there is no fixed truth. But though to most a man's individuality—with all the circumstances that make it up—may be uncertain, it yet consists of *actual facts*. We may bear in mind that it is so, though we do not know the particulars for certain—may refrain from supposing that we have any right to make sport of, or to try and alter these facts at our own discretion.

The rules of society are meant to indicate these, and that should be enough for us; for in a right state of things these rules, though only *indicating*—and often by the slightest circumstances—should not deceive. To make use of them in *that* manner ought to be reckoned so great an offence that general opinion should at once check it. It is from this that the importance of the slightest forms of society arises; that fairness requires their observance; that without them, with the best intentions, it is almost impossible to act aright; that purposely to pervert them, though generally looked on as venial, is really a flagrant wrong; and when done on purpose involves a much greater moral offence than many that are always severely reprobated; the circumstance that no one can distinguish between what arises from ignorance and sheer neglect, and from design, only conceals the nature of our offence, but can make no difference as to its morality.

It is needless to say, also, that any circumstance that enhances the value of these forms and rules—that may lead another to be anxious to set them aside—makes their violation only the greater wrong, and ought to be a reason for our attaching the more

importance to their right observance. One irregularity is thought to excuse another, but in many cases it ought to be the reverse—instead of excusing, it ought to be only a stronger reason for insisting on the right rule. It is like the thin end of the wedge. This may not *always* be the case, but it is sometimes. No mere stickling for rules and forms will prevent the intrusion of injustice, but as little will disregarding them. Hence the importance of knowing what they are founded on; and it is enough to put us on our guard to know that sometimes everything is involved in adhering to them—in what some, in ridicule even, may style stickling for mere etiquette. If further it is asked, How are we to know when they are of importance and when not? the only answer is, that this is where we must always exercise our own understanding and discretion, and when we do so, many little circumstances may indicate the proper course to one mentally and morally on his guard. These indications in doubtful circumstances are of as great value to us for guides as the most unequivocal and certain knowledge.

A state of doubt and suspense is uncertain knowledge. Where they exist nothing should be said of them—that is, in general society. That would be most unfair to some, and cause very great mischief. Nothing whatever should be said so long as they are mere doubts or suspicions, strictly so called; they should be borne in silence, and there should be nothing in outward conduct or speech to shew their existence. There may be more reserve, however, and avoiding of committing ourselves positively until such doubts are explained, provided always the reserve is not such as to be noticed. The same forms and rules of society are to be adhered to, and everything that marks the same confidence; and this though there cannot but be a doubt in our mind. Mere doubt is not a ground of action; the doubt must be given in favour of what is right, the same as if it did not exist, till there is certainty. Such is the rule of judging in more important and formal matters of civil life. To act otherwise is to sow mischief and distrust in society, which very much consists in such intercourse as is distinguished for the absence of everything like suspicion. The name given to this is honour—all are supposed to act honourably. In business it is different; there we do not draw upon credit, but

expect exact visible security in everything. We must run the risk, then, of being deceived and injured, rather than infect others with mere suspicions, or violate the harmony that arises from the observance of the usual rules of social life. It is inconsideration or selfishness that naturally inclines us to act otherwise, but it is not right. Indeed, if the use of rules is very much to make things known, there will be little room for doubt as to anything we should properly know. What has been said applies, therefore, rather to more general intercourse, where we ought to be more on our guard. On the whole subject of suspicion, it has been said—“There is no better way to moderate suspicions than to count upon such suspicions as true, and yet to bridle them as false; for so far a man ought to make use of suspicions, as to provide as if that should be true that he suspects, yet it may do him no hurt.”¹ On the one hand, here we may see the importance of those rules which contribute to make things known; for true society we cannot have without confidence. “Doubt, a hidden worm, gnawed at the root of their society; they lacked mutual confidence, and lived in mutual dread.”² And yet, on the other hand, we must not insist on too much of this, beyond fair rules, or we prevent more general society and abridge liberty. Strangers would have no chance, and we ourselves become too easy and careless. If we run no risks, we will at the same time miss much good.

Secret knowledge is another important branch of this subject. Much mischief and injury are done through its abuse, as we might suppose from its being the very opposite of making things known. A few plain considerations regarding it are to be steadily held in view as our guide against such unfair abuse. In the first place, we must remember that it is still *knowledge*, though it is secret; that does not change its nature, or give rise to the same circumstances as if there were ignorance. This is often forgot. We may conceal our knowledge, or pretend ignorance, and others may be deceived, but the circumstances are different. We cannot help the knowledge influencing our conduct according to its nature and the particular circumstances. Of course, it may be something so trifling, or so remote from anything connected with society, as not

¹ Bacon's Essays. Of Suspicion.

² Said of a state of society during a time of revolution.

to have much bearing upon the subject we at present consider ; but it is very different if it is something which, if known, would alter the state of things in the particular society—would prevent society—would cause the absence of any, for example—or make the conversation different from what it was. In this last we have an instance of the consequences of this abuse ; for there might be *one* of a party in possession of a secret listening to others who were speaking in reference to the very matter in total ignorance of what, if known, would make them talk very differently. The one in possession of such secret knowledge might not positively deceive by saying anything—by joining in the conversation as if he, like the rest, were ignorant—but silence also would be unfair ; he would be an *unfair member* of such society—would be at the best disqualified for it. He might be taking advantage of the ignorance of others, or enjoying the sport of seeing their ignorance. In any case, quietly to see others acting or speaking under a mistake without saying anything is a violation of the fair and honourable rule of society—of the rule of equality, which is its principal feature. Though this should never come to light can make no difference as to its morality. It is unfair advantage. It is much the same as if a person were a member at the same time of two opposite and contrary parties—pretending to be friends with both sides, or acting as spy for one.

It may be asked, What is one to do, then, who may happen to possess such secret knowledge ? Whatever answer is given, it cannot alter what is stated above ; though it amounted to an injury to the party themselves, it would make no difference. *They* might have to suffer, as they would if kept from society, for there are disagreeable and unprofitable secrets as well as the reverse. But, at least, one need not pry into secrets with which he has nothing to do ; may keep everything open as it should be, and avoid what would lead to such knowledge.

Irregular or improper knowledge is much the same as the last ; it may be a lighter shade, but, so far as it goes, it equally disqualifies from society. We must not make light of it. To say nothing of morals, society will not go on harmoniously with it. It will be like an intruding mixture—like a grain of sand in fine machinery. In an important sense, the whole of society depends upon its

non-intrusion. The *outward* society may be there the same as ever, but keeping in mind the meaning of the word society, and its real end, whatever destroys that end and the *inward* meaning must tend to destroy society. Some might say that it was destroyed—that what existed was a mere outward show, an acted farce, as in certain extreme cases we can easily imagine would undoubtedly be the case. There is at all times too much of this *mere acting* and want of truth—more than should be, than need be, if proper care were taken; but, beyond a certain amount, society properly cannot exist if what is irregular or secret becomes of more importance than what is open. It is not a large admixture even of evils that will destroy the true nature of some things; but we should be aware of and on our guard against their real tendency; and, from a sense of their importance, and the diffusion of this generally, be prepared to do all in our power to expel what, if it does not destroy, injures, spoils, and limits society. In social matters, as already said, we have no laws we can enforce, as in other things, and the more need to bring *general opinion* to bear—that is, not the opinion of a few, but of all.

The very word *irregular*, under which so much of this evil exists and creeps in, shows the importance of rules. It is not, we need hardly again say, *dead rules* that is meant, but an adherence to their real meaning, and that is incompatible with despising them altogether. At the least, they form the very armour with which we must fight—must defend ourselves; to take them away is the same as to deprive a soldier of his arms. He may not have to use his arms on all occasions, but must have them always at hand in proper working order. If he has dropped them when he was attacked, no wonder if he was overcome. In the same way, if we drop the forms of society, should we find ourselves involved in what we think unfair or dislike, what can we complain of, or what can we do? we can only, perhaps, have recourse to the same irregularities in return—thus at least making more confusion, and doing nothing towards the advancement of a better state of things by finding out what is wrong, showing what is right, and thus causing it to cease to be a source of mischief, but rather giving it too good an opportunity of concealing itself in that unreasonable confusion which springs up where there is no law and

rule. All that has been said against lawlessness may be said here. Where it exists no good is to be expected.

How much, then, of morals must there be in all that these forms and rules of social life are meant to indicate! They must often keep those who are conscientious from society altogether, when seeming compliance with them would be only to deceive and to act as hypocrites. This is apt to lead to the supposition that all such rules are vain and useless, and inseparably connected with deceit and affectation. But they need not be so. If properly understood, and if carried out more completely, they would only conduce to a good understanding, and enable all to have intercourse with equality, giving no occasion for questions being asked. If their meaning were understood, then at times when irregularities arose, as will always be the case, instead of that blind adherence to the mere outward form of rules, there might be an adherence to their real spirit. It is this blind and tenacious keeping to the mere outside of things, without seeking to know more, that causes that acting, and deception of mere appearances, which gives a bad name to much in social rules. If we know the design of a rule, we may be adhering to it when we violate its letter, as we may be violating it when we keep close to the letter. To adhere to the outward rule may be the best we can do if we are in the dark—if, like children, we cannot part ever so little from that which is our guide without losing ourselves. And generally we should adhere to rules without making exceptions.

Much of what causes this arises from the difficulty of reconciling what is due to public things—to outward appearances—with the real inward truth. It is admitted that a great deal is due to the public; but then there must be limits. None will say that we are to set all moral considerations at defiance for the sake of mere appearances. There are, doubtless, all degrees of deception, but this limit; at least, we may fix for certain, that no reason can justify the statement of a *falsehood*. Some things, indeed, are secrets, and about these we cannot be expected to be open. They do not belong to those things which ought to be known for the welfare of society; but whether they are truly of this nature or not we must consider. They are comparatively few, but the constant tendency is to make more of them than should be—to make

secrets and mysteries where there should be none—and to do so without reflection, as if the rule was we were at liberty to act regarding them as we chose, independent of moral considerations. There is a temptation in public things—in matters of outward appearance—to say what is false, either to keep up outward appearances, or for the better motive of doing injury to none. This, at the best, is only a temporary remedy, is accompanied with many evils, and is immoral. The statement of the truth, on the other hand, cannot be really unfair; if apparently so, *more of it* would remedy the wrong; while the slightest deception *at first* may be only the commencement of a long course of the same—always getting worse—while what was true would in time explain itself. It is often only to avoid a temporary awkwardness.

This temptation to have too great a regard to external appearances, to the disregard of the truth, we find, *first*, in *public things*; as, when a person in discharge of a public duty thinks he is at liberty to disregard everything else as merely secondary. *Second*, We find it in social matters—in parties, in meetings, and intercourse; where “smooth good-breeding” is but too apt to assume the appearance of love. It is probably rendered all the worse because, being a question of degrees, there may be reasons of a temporary kind why mistakes, ignorance, etc., should not always and at once be corrected. This ought to be done as soon as possible, however, and should not again occur. In many cases decision is proper to check them at once, even at the expense of that outward smoothness so much prized. *Third*, We find it in conversation. Truth here should be maintained, and what ought to be known made known. Silence—the not correcting mistakes we know of, etc.—is often worse than slander itself. The important practical point in all these is that we must not, for the sake of mere appearances, outward harmony, or even apparent and immediate good, evade those crises or occasions that occur. Such occasions or crises are known and distinguished in general by the difference between truth and falsehood that they involve. We must not give way to what is immoral for the sake of any prospective good. These may be called the moral keys or standards of society; and to evade them leaves us without a moral standard and guide. After having allowed such crises to

pass without notice, all will be mere acting, destitute of that truth which should give it virtue.

Besides the moral decision and courage required on such occasions, patience and endurance also are necessary in other things. The want of these is almost as great an evil; when a person will not put up with what he considers to his disadvantage without a bribe to make him willing to do so. In society, apart from any direct pleasure, there are duties and disagreeables that we should bear with. Thus, there may be acquaintances whom we do not like so much as others, and yet they are entitled to fair and equal treatment. We ought to act our part as listeners also in conversation, even when not so agreeable as we desire. In receiving and sending letters, too, we must have a sense of duty, as well as a desire of pleasure. In all these things, if we do not thus act, but seek too exclusively for the agreeable, we may miss even that and what would be for our own profit, to say nothing of others to whom it may be of great importance that we should know the truth. Something of the greatest consequence, or even what would be most agreeable to ourselves, may be enclosed in what is disagreeable to us—like a kernel in its husk.

In society, then, there are some things that should be known, and others that should not. These two should always be kept quite distinct and apart. We cannot break down the difference and confound them, but, however much we may conceal it outwardly, it will give rise to mischief and corruption. No secret can be known, and yet things remain as if it were not; though *many* pretend ignorance, it is just to make more mere outside actors. It tends to give rise to confusion, and unavoidably in the end to suspicions also. No wonder if what were awkward and disagreeable constantly occurred.

In addition to the moral considerations, there are *natural* also. Things wont work, so to speak, when there is too much wrong in these matters. We should, therefore, never too far separate the outside of things from their real truth. If they are separated, it is a sign that there must be deception, suppression of truth, and unfair acting. It is more difficult to manage and keep right what is thus wrong than things that are as they should be; and this difficulty may become so great as to break through all restraints.

Feelings of truth will be apt at times to get the better, according to the proverb—by our forcible warping and unnatural expedients we may expel what is true, but with a rebound it will be constantly recurring.

If we consider this subject in the light of religion and of scriptural rules, there is none on which there is a more general agreement than that true politeness is based on right Christian principles. This has been already alluded to in the foregoing chapter; but the subject is so important—lying as it does at the very basis of Christian society and general intercourse—that something more definite may be said upon it. “Christianity does not dispose its followers to violate the proper rules of social intercourse.”¹ All agree in this, but too little attention is paid to *what these rules are*, as if it were thought that a *good intention* were everything. Yet there is nothing more true than that no amount of goodness will do away with the natural consequences of ignorance, mismanagement, and the violation of rules. It may teach us to bear these consequences with patience, but to *prevent* them we must use all proper means. Another author in the same way says, “I consider sincerity as the foundation of politeness.”² That “hollow-hearted politeness,” which “the Christian is not to aim at or copy,” should not lead him to undervalue such rules. At the foundation of all, doubtless, must be real “kindness,” or goodness (Eph. iv. 32), as the first guiding rule held out to us in Scripture. Next, perhaps, we may place that forbearance, submission, and subjection to one another which is also enjoined, and upon which, doubtless, depends all that is really valuable in society, which is excellent in proportion as it exists, and which is so necessary in some measure as to be imitated where the better foundation of real “kindness” is wanting. This virtue is enjoined in such passages as these: “Forbearing one another” (Col. iii. 13); “Be subject one to another” (1 Peter v. 5). This subjection is to be real—more than what might be among those everyway equal. It is to be like that paid by the younger to the elder—“Likewise, ye younger, submit yourselves unto the elder. Yea, all of you be subject one to another” (1 Peter v. 5). The existence of offences

¹ Barnes on Eph. iv. 3.

² Gener. Letts. 14.

and matters of complaint is taken into account—"Forgiving one another, if any man have a quarrel (marg. complaint) against any" (Col. iii. 13).

Then, *secondly*, and going still further—where there is no cause of complaint, or call for that subjection to each other, which consists in adhering in many cases to those rules of intercourse which may be against our natural inclinations—we are "in honour" to prefer "one another" (Rom. xii. 10) in things that are mere matters of honourable feeling. In another passage we are warned against "vain-glory," the very opposite, and exhorted each to "esteem others better than themselves;" and then, in the next verse, another root or rule and guide we are always to hold in view is pointed out—"Look not every man upon his own things, but every man also on the things of others" (Phil. ii. 3, 4). The forbearance, subjection to, and preference of one another alluded to are not to be a mere vapid, general, and unmeaning course of conduct, but to spring from an intelligent regard to, and knowledge of, the interests and feelings of others. This we cannot have if we think merely of *our own* interests and feelings—of our own rules of conduct—for then, suppose we have the best intentions, and even not to be wanting in that true "kindness" (or goodness) upon which the whole is based, and though well-meant kindness is never to be despised, it may not be suitable for the party to whom it is shown: they may be grateful for it, and be far from making any complaints, and thus leave a silent wrong to remain long enough without a remedy. There is nothing oftener seen than this. It has its other and evil aspect, when such kindness, preference, etc., is *not well meant*—when there is no want of a knowledge of the "things of others," and of what is and is not to them fair and equal, but where there is a want of that true kindness which would prevent such perversion. But we do not consider such cases, except to say that *ignorance* may give rise to the same: leaving always the hope of amendment, however, when ignorance and mistakes are removed. But the rules of society are so fixed by custom that this is seldom done than one would expect from its nature. The young follow the old, and all blindly follow their leaders; so that, especially when the wrong is not outwardly flagrant, there is little chance of its

getting the calm consideration necessary. Even in this those well-disposed will think they act quite fairly when treating others as they wish themselves to be treated—not considering that this is here “measuring themselves by themselves,” and is not right. One reason that blinds them is, that this applies to *sets or classes*, and is apt, therefore, to be thought fair to *all*. Its effect, as regards the subject we at present consider, is the silent withdrawal of many from social intercourse—quite voluntarily, no doubt, but to the loss of all, and not the less a wrong on that account, and at least inconsistent with that state of freedom on which we pride ourselves in other things, and towards which we should always be striving.

What, then, is needed is—that we study the rules of others, and conform to them in all that is fair. Without this there will be either the withdrawal of some, or it will give rise to that smooth outward acted deception so often complained of, and so utterly opposed to a third great Scriptural injunction to “put away lying” and “speak every man truth with his neighbour” (Eph. iv. 25 and Col. ii. 9). If this applies to conversation, it must also apply equally to everything that conveys meaning—to all those rules and forms and actings which are intended to make things known.

Mere polish and restraint do not come up to the true standard of Christian politeness; they do not include that real regard for others which is necessary, though they very often put on an appearance of this—thus paying homage to the right principle. What is needed is the proper consideration and regard for what is the rule of others. There can be little doubt that it is from the want of this that all those irregularities and meddling with one another’s matters, which first, in many cases becomes almost necessary, and then, in the confusion it unavoidably gives rise to, leaves too fair room and excuse for others doing the same with less or no reason at all. It can only be the want of something—the want of a knowledge of the foundation that politeness and manners rest upon—that gives rise to these, or at least it would have prevented any occasion for breaking through the regular course of things. And this knowledge must extend to *all* to have the proper effect.

All these considerations have a very direct bearing upon religion. Fairness requires that they be attended to. What deprives some of general society may, in a similar way, deprive them of religious. Besides moral considerations, proper *order* requires to be kept. Indeed, it will be generally admitted that until *this* is settled higher considerations cannot even well be dealt with in any regular way—or, if they are, will render their consideration vain. Of how much consequence, then, must it be that in such matters the right rule be striven after. We cannot fairly set them aside under the plea of not being religious, any more than we could the excuse of a poor man that his clothes were not good enough in which to go to church, or that the distance was inconvenient, or any other outward excuse he might make. They may be equally hindrances—not perhaps to going to church—but to that truth and proper order that is there required. We cannot well have order on one day, and confusion on others. From which will arise the self-same disjunction of classes, or loss to some of society, as has already been noticed.

Reform thy manners and the truth enjoy ;
From purer manners to sublimer faith
Is nature's unavoidable ascent.

—*Young's Night Thoughts.*

CHAPTER XI.

MANNERS AND FORMS AND THEIR INTENTION.

Introductions and making acquaintances. The true equality of society. Making and keeping acquaintanceships. Calls. The proper standard to follow is the lowest. This is voluntary.

"Bad manners are bad morals."

—Paley.

KEEPING these leading characteristics in view, we may consider some of the most common and necessary social forms used in our intercourse.

First. There are *introductions*, the real meaning of which is just to let one person (or persons) know who another person is, and anything about him that should be known, so as that they may become acquainted with one another. Its use may be seen in considering cases where it is wanting. With total strangers there must always be more or less constraint, hesitancy, and reserve. With them, also, there may be many little circumstances that will mislead those judging from mere appearances—those who can form opinions only from any trivial marks they observe. This, of course, if acted on, might lead to mistakes, and be awkward and unfair. Strangers, therefore, avoid this as far as possible by keeping to mere general conversation with one another, and saying or doing nothing but what is so usual as not to mislead, and in general there can be no great curiosity to know particulars. But if anything gives rise to this curiosity—in the want of introductions, we are dependent on the information we may obtain from others. This may be more or less correct; but we must mark how it differs from an introduction. In the case of the latter, both parties know from whence the information is derived, and have an idea of what it consists in. In the other case, it is guess-work; and it is to be remembered that it makes a great difference *who* informs us and *what* the information is. Take the case of one who has had many changes and varieties in his life—changes of place,

changes of pursuits, and changes of acquaintances, etc.—such information would be different according as it came from one or another of his former acquaintances. Thus, did he come to know that a person had been informed respecting him from a certain quarter, he might at once feel that, as a matter of course, he would be told what was very unfair and untrue. Besides, in mere casual conversation, truth in general is least regarded, and such information is anonymous and not to be depended upon. Where there is an introduction this of course is known—it is, indeed, the chief meaning of an introduction. A person always knows that he will be spoken of, and that more or less will be told regarding him in his absence: he cannot tell when he meets strangers *what* they know about him or whether they know anything at all; intercourse must be general and cautious. An introduction fixes this *for certain*. There is not only the mere name, but in general, and where at all required, other obvious, natural, and expected pieces of information must be supposed included in the introduction.

Introductions, then, are opposed to what is secret. They bring into light what is hidden, make certain and sure what is otherwise uncertain. Though in common we cannot be said to be suspicious of all and sundry, still in general intercourse our conduct is framed on the supposition that strangers met with *may* be such as we ought to be on our guard against, and that any particular person is not such cannot be known without an introduction; even if both parties should secretly make inquiries, this is unknown to each other, and only contributes to that disagreeable and often unfair uncertainty already alluded to. This strangeness and distance among those not introduced to one another is only what we must rightly expect. Any attempt to act as if there was anything else is wrong—is to insist on what we have no right to expect; or imprudently and improperly to expose ourselves to the risk of imposition. There is something more definite still, however, in introductions. There are different kinds of intercourse. In some places, for instance, and on some occasions a person expects to be known only in a certain character. Thus when anyone calls upon another in regard to any particular business, whether he is introduced by anyone or introduces himself, it is in reference to the business on hand that he is known. There may be much of this

intercourse without any other kind of acquaintance. Thus an official may meet many in business whom he does not care to know otherwise. Let this be applied to other things, and the intercourse limited by and suited to the particular circumstances. Much propriety depends upon it. If it cannot be had, then society cannot be had, for most will avoid society that might be too free or lead to mistakes. And thus, as introductions are not always to be had, the effect is that only men of the same class, business, or pursuit, etc., associate together. It should be added, however, as has been already shown in a former chapter that where there are no mistakes there is much that is excellent in general intercourse.

This leads us to say, that it is unfair that any should pretend to or suppose there is an acquaintance without an introduction. That one party knows all those particulars that it is desirable to know, and wishes to have intercourse with the other, is not enough. This knowledge is not acquaintance. The *other* party must know the same, and in addition each must be aware that they are known by the other—a mutual party must introduce them; or, the one may merely remember the other as a person he has seen and spoken to, or may have forgotten altogether.

Knowing all the particulars, however minutely, about any person is not the same as acquaintance (we must repeat), because it is, perhaps, the most fruitful, and yet unobserved, source of many of the serious evils pervading social life. It is a mistake apt naturally to be made. It might be thought that this was no great matter; but when we come to think how the smallest thing in society spreads, we shall find it is a serious evil. There is not only the party himself who thus supposes an acquaintanceship, but he will mislead those dependent upon and connected with him, his friends also, and others. Who are entitled to be called or to call themselves a man's acquaintances is no trifling matter, and this acquaintanceship, like nearly everything else of any value, has attached to it certain actings and marks that define and show it. It is not something of a vague and uncertain nature, which we cannot fix and show. It is not what depends upon our own caprice, so that we can take up and drop acquaintanceship as we find convenient. Introductions are the first steps in acquaintance.

ship, and as such are of importance, and necessary for the right working of society. There is a want of some term to express a mere casual acquaintance—one known for the time being only—who may be perhaps remembered or perhaps forgot, some people having a better memory than others in such things.

Every acquaintanceship must begin in some way or other. We may introduce ourselves even—may make acquaintances, etc. In short, there must be something of the nature of an introduction. “How did you get acquainted with such a one?” is a common expression. The “how” is of some consequence, and gives a colour to the whole subsequent acquaintanceship. The initial step, then, should not be despised. As well to understand and act upon right principles and rules at once, as by neglecting or despising them to cause mischief, or interfere with the harmony of social life—or, still worse, allow others room for working designing injustice; and this we cannot well prevent if we neglect them ourselves. Time, indeed, generally explains and puts things right, but that is rather when acquaintanceship has ripened into something like friendship; for mistakes may do much mischief, last long enough, or never be corrected.

The great point is, always to keep in view the essential meaning of introductions, and never to allow any mere forms to displace them. These last may vary in different classes, but in all ought to have the same end in view, thus preventing any confusion in the intercourse of classes, in this resembling gold and silver money, where it is of little consequence which we are paid in if we receive the requisite amount. In some there will be apt to be more forms and ceremonies than in others, but there is little room for those in such a simple matter as an introduction, if we would not destroy its real use. This, however, is what is done, and is the great practical evil to be complained of. Thus, *letters* are a very common form of introduction, where parties are separate. But they are too apt to be looked on in such a light as more to resemble *certificates* or *testimonials* of merit and promotion, and the consequence is, they are not used except what is meant by these is implied. This is to confound *letters of recommendation* with simple introductions; and by so doing gives rise to all the evils that the want of these cause. In many cases the hardship is not felt, but

in others it is ; for many a one might receive a simple introduction —only giving him a fair and equal chance of commending himself by his conduct, etc., and of making his own way—to whom an introduction implying more would not be given.

Things that differ cannot thus be confounded without causing injury, and there seems little occasion for it. Let the proper distinction be adhered to, and introductions be simply introductions, while letters of recommendation, testimonials, or certificates, retain their nature and imply something more. There is a distinct line of difference. The last are something superfluous ; their omission does not concern the general community. Introductions, on the other hand, are *necessary*, and cannot be avoided in some shape or other ; and being thus necessary, should imply neither merit or demerit. They are one of those things which keep the framework of society in order, and which all are concerned in keeping right. To put *another* or *more* meaning into them is to pervert them—to deprive us in a great measure of their use, and thus corrupt and injure society, giving rise to all those mistakes, misunderstandings, misrepresentations, deceits, and almost fraudulent impositions, together with all the unfair practices which, though they are allowed to pass current, contribute to the misery that pervades life, and must be disagreeable to every right-minded person. It is part of that loose and slack dealing which is favourable to everything bad and unfair.

Any small distinction might separate these different things. An introduction implying more might even have its own distinction, and not engross the whole, and deprive the others of the use of introductions altogether. No meanings of ceremony or fashion should be put into the *necessary* forms of society, though they may sometimes accompany what is necessary. To extend them too far is the commencement of corruption ; and, however compatible with wealth and even rank, is inconsistent with true manners and politeness, the proper independence of a state of freedom ; and is, perhaps, the very commencement of that overrefinement, overdelicacy, and mere artificial distinctions we have seen to be so often complained of. To recur again to the example of gold and silver money, we may add, as an illustration, that these ceremonious meanings might make a very good distinction,

and do no harm, so long as confined to a mere distinction of manners which everyone admitted ; but this would become something very different if a greater value—as of one shilling in the case of gold and silver money—was attached to the one ; then it would always be a striving to obtain that which was of most value, and it would be in vain to expect any voluntarily to adhere to a distinction involving a rule of etiquette or manners only, however useful and necessary this might be to regulate society aright. What would do the mischief would be the *greater value* attached to the one ; for there ought to be nothing in society putting more than an equal value upon different forms, or it will soon throw it out of a fair balanced state. Those who meant to meet as equals will quickly find something disturbing this, and leading invariably to a preference, just as surely as we would find gold preferred if of greater value than silver. Forms may show and make known differences without in the least causing inequality. Their use, however, as thus indicating distinctions, and so preventing confusion and promoting the harmony and good understanding of society, will be destroyed if we come to attach to them meanings of superiority arising from anything substantially more valuable always found to accompany one rather than another. It ceases to be a matter of indifference which coin I am paid in.

To understand the meaning of the rule is here, as elsewhere, the great thing, and is what should underlie ceremony, which only comes as an addition to it, and may be characterised as pertaining to what is more public. Different circumstances make it more suitable to some than others. Thus, we may say that the general principle that pervades the business classes—and they must be viewed as forming the great mass of the community—is plain direct dealing ; while in the higher or wealthier it is more ceremonious—more delays and longer time in the performance of anything. There is little or no ceremony in most classes—usefulness and necessity being the great criterion. There is more activity and change, and therefore what is done is done at once for altogether. In this it is the opposite of a *credit* system, which rather characterises the higher classes. It will no doubt be said that credit is very common in all classes, but still it is not what characterises them in ordinary dealing.

In other respects, we find in the higher classes more of what is artificial, of what is superfluous and mere matter of fashion ; while in the others there is more of what is natural and useful. But none will say that these last ought not to be found in all classes.

Where there are no introductions, as already said, we must keep to the *general* rules of society and intercourse, and these are enough so far ; and no occasion for our knowing more, for we cannot make acquaintances and friends of all whom we meet. To insist upon knowing all about everyone we meet is, in a great measure, to exclude ourselves from society—from society that is most general, and, in many respects, best. It is a bad sign, besides—a sign that some disproportionate value is attached to forms, etc., and that society is off its balance.

Acquaintancehip is *commenced* by introductions, but afterwards there are several important points to be held in view, in order to retain the right order of things, prevent confusion and unfairness. We shall find what is meant under several common expressions, showing the existence and propriety of what they imply, but unfortunately not bearing the weight of laws or rules to which any think themselves bound to conform ; whenever convenient they are set aside, or at least not thought of as containing the standard of right and wrong. We hear of *new* acquaintances, *old* acquaintances, *former* acquaintances—of *making* acquaintances, *dropping* acquaintances, *losing* acquaintances, and *renewing* acquaintances. There are also, of course, school, college, and business acquaintances.

In *making an acquaintance*, all that has been said of introductions is applicable. What is to be kept in view is, that it is a distinct step ; and that we are not to *suppose* or *fancy* an acquaintanceship without it. This we are too apt to view as a mere matter of fashion and empty ceremony ; but, though these are both apt to attend it, and to be carried so far—in the same way as they are in other things—as to make some despise it as quite frivolous and unnecessary, it is, as has already been shown, an actual thing and necessary for society. The saying might be quoted that, “the abuse of a thing is no real argument against its use.” Otherwise it is to let our conduct be regulated by our fancies, and to become the sport of chance and uncertainty ; and

this not to our own loss alone, but to that of the whole community.

We go into no particulars, and only say, that it is necessary, not only for a state of freedom, but of true and agreeable intercourse, that, however much the *forms* may vary in different classes or in different circumstances, it is necessary that the plain and simple reality be held in view and retained tenaciously; so that no improper extension of either fashion, ceremony, or anything else should be allowed to set it aside. This, it need not be said, there is a constant tendency for these to do. We must not, in looking too eagerly at the stamp, forget the quality of the metal itself. It must be borne in mind, however, at the same time, that by the *plain simple reality* we mean here the outward form itself, for the term means a *form*, and, as said at the outset, without *that* it does not exist at all. "Young men often make a serious mistake on this point. They think if they only have the substance, the form is of little moment."¹

Keeping up an acquaintanceship is another expression, and implies also that there is *the dropping* of one. Now, the truth involved in these expressions is more important than, from their mere casual use, most are inclined to suppose. At least, on consideration, we shall find that important points are involved in them as well as merely the description of a fact. Both freedom and fairness are concerned in this. There will be a great loss of both if the principles involved in these expressions are not adhered to. They must be kept up or dropped—yea or nay. In the latter case, of course, there will then be freedom to make new acquaintances; and this is no matter of small moment.

Here the characteristics of the different two main ranks, pursuits and occupations, of society will exert their influence, and give rise to certain differences. Thus those in business being in circumstances more liable to change than those not, we shall find that their interest will incline them to more frequent changes than the last. To keep up an acquaintanceship there must be interchanges of visits, etc., within a reasonable time (say one year); but natural occasions will probably present themselves, and must not be avoided, otherwise the doing so amounts to a much more

¹ "Mistakes of Educated Men," Christian Treasury, January, 1864.

distinct dropping than may arise from mere lapse of time, and of course shortens that time. In the wealthier, or those not in business, the time, from various circumstances, tends to be longer, and the same is the case in what is analogous official situations. The reason, in this last case, is : an office in a sense never dies, and its occupant is always, from his official position, supposed to know and be known to others. There is less and less of this as we descend in the scale of society, though most in some way or other have generally more or less of an official character. The larger a crowd is a person in it is less easily seen ; he must keep close to his acquaintance if he would not lose him—must appoint places and times of meeting all the more accurately ; and, once lost, he may feel himself free to look for another, and all the more if he supposes he has been purposely parted from. This may be even convenient. We may prefer to exchange words with others now and then, and to think no more of them.

In any place, on the other hand, where there are but few—where all see one another and can scarcely be lost sight of—there is not the same freedom, we must go to a greater distance if we wish to avoid anyone—we cannot drop an acquaintanceship so easily. An official party can do so easier by dropping his official character.

There are *forms* in all classes in this. The actual reality must have a form of some kind. The tendency at one extreme is to make it a *mere form*; but the other makes a great mistake if this leads it to drop the form in every shape, for with it we shall also lose the reality. If we have dropped or lost sight of an acquaintance for long, it is a delusion to suppose we retain his acquaintance; like money bills—and indeed like everything else—they must be timely renewed if we would keep them afloat and alive. To persist that we do, and act on it, is only to persist in something like annoying a person—as troublesome strangers sometimes do—with more in our power from former knowledge ; and, though borne with for various reasons, that neither shows it is agreeable nor makes it right and fair. It is this right and wrong we have in view, and *that* at least should be known. It very obviously interferes with making new acquaintances, and in altered circumstances that is what one party may find advantageous. It is to

hamper his freedom not to allow it. It is selfishness in the other to forget it because he is not affected in the same way, and without forms it may be impossible to know.

Calls doubtless are the regular recognised way of keeping up an acquaintanceship. But as the meeting together is the reality, we may have these without formal calls. This may be casually, or what is more common, connected with *business*; though in this case there would need to be something to show that it was not mere necessary business. If, however, there are none in either of these ways, there must be calls on purpose, otherwise it is in vain to say we are keeping up an acquaintanceship. From this it is easy to understand how calls should be more frequent and formal among those who have little or no business engagements. The point to be attended to, however, is that an acquaintanceship may be a mere business acquaintanceship, or may degenerate into that if there is nothing but meetings arising from business—to say nothing of this being confined generally to merely a single party, instead of a whole household. Something might be said of the right of calling, of intruding, of disagreeable calls, etc. Consideration will show what is right. In general there must be some business or good reason for a call. It must be within a reasonable time, or else it is like trying to *renew* an acquaintanceship, to mend a broken link, which, of course, may be done, but is not the same as an unbroken chain. The tendency, however, rather is for parties to be *unreasonably angry* at disagreeable calls. We must consider ourselves liable to be called on for any fair reason.

No person can have more than a limited number of acquaintances, at least in the stricter sense of the word, and every man has a few; and if he were to lose them to-morrow, he would find new ones in a very short time to supply their place. For dropped acquaintances, then, to reappear on the stage whenever it suits their convenience must be, to say the least, very inconvenient and confusing. The new may not sort with the old possibly, besides being too many in number. They are more likely to do injury and offend one another. The expression here is a *circle of acquaintances*, implying something complete in itself; if we take in more we must see that they piece in properly. And if in chances and changes of life an old circle has been broken up, a person is free to

form a new circle. Some of these things may be trifles provided there are no mistakes creating confusion and quarrels, but these are just what are likely to arise from any mere selfish neglect of the fair rules, otherwise even awkwardnesses may be arranged. In the greater changes and variety in the business classes, this liberty to change is valuable. Just as a person in changing from one official situation to another, changes everything connected with it, so there may be analogous changes in other cases, though there is no situation in the matter.

Precedence also is, in many cases, of the utmost importance. The violation of the proper rule shows this. Other considerations than which is the greatest must be attended to. We may insist on getting our right, but we ought to be content to receive it in a proper way and time. This is sometimes *indirectly*, in which case we must have the patience to wait for those who precede us, who otherwise may unfairly be shut out. Room, too, for the intrusion of others is left by its violation. Someone must always go first, and almost always there is something that points out which it should be. Not to attend to such trifles through carelessness is just taking the place of another, which of course may be irritating if not downright unfair in matters of more importance.

Acquaintanceships, of course, may be *renewed*, but then it should be remembered that it is *new*. The new may be more or less the same as the old, but still it is new. There must be fresh introductions, and more or less a forgetting of the past. This is merely to recognise the fact of a change of circumstances. It is selfishness not to do so because we ourselves feel no change. This change may be in the other party, and we must regard *his* feelings and interests. His protection in these forms of society, which in this case, as in that of laws, are for the protection of the weaker party; and for the stronger to disregard them is only the extension of that tyranny and arbitrary conduct into the domain of society of which we hear so much in political power. True manners and politeness here are on the side of law and freedom. It is none the less the loss of liberty that it seems bad manners only. The stronger party—and in general this is what is the case, and what is to be guarded against—may think that he has *his* liberty too, and that he is only keeping it. But if it injures the other party, it is a

mere question of right and wrong ; and if in the wrong, the claim of liberty differs nothing from any other abusive claim of freedom that we might make—its being quite in our power does not make it right.

A year is a very proper period to fix upon as necessary for a recurrence of meetings in order to keep up an acquaintanceship. Calls are expected to be returned, etc. This is not *necessary* for a mere meeting, which is the essential part, and so, therefore, is not required so much in the business classes, which are characterized by what is necessary. The omission, doubtless, of what is usual—is expected, and would cost little or no trouble—may very well, in certain circumstances, be considered to amount to a slight, and tend towards the dropping of an acquaintance. This, however, arises from the *meaning attached* to it, and not from the nature of the case itself. If we *meet*, it does not so much matter, provided there is no confusion, which is the party that goes to the other ; and this is the way the most people are apt to view things. We see a very good reason for it in the nature of the circumstances. Amid the pressure of business this is what suits the most. At the same time it is to be remembered that a *mere business* acquaintance is different from a family one.

There may be a great abridgment of liberty from this principle not being adhered to. This may be thought no great matter, but it makes a great difference. Thus, if a person changes his position, if he is still to remain the same as before, it greatly abridges his liberty, and he cannot do many things he otherwise could. It is true, a person is at liberty to act as he pleases ; still much depends upon general opinion and good-will, which few like to go completely against. Some also will be inclined to think that this is right and most orderly. But it is no matter of feeling and opinion, if, as we have been all along viewing it, the rule is made by the actual truth of things. If there has been an actual change of circumstances—if many of the rules and forms of society have been dropped, or become inappropriate, as no doubt they will—then we should not insist on unchanging arrangements, for these should not be carried beyond their actual agreement with truth by any irregular expedients, or—what is as often the case—by overlooking, forgetting, or despising the importance of changes. All changes

are apt to be troublesome, but they cannot be avoided, and we should be prepared to face and acknowledge them. This, too, is in favour of that general intercourse, which is a great advantage if it can be got consistently with the proper social rules; but it is destroyed by the undue extension of particular society;—that is, by a too unbending, uniform, unchanging state of things.

What needs to be attended to is, to keep in view the reason of the rule. It sometimes may give more trouble to keep to a more simple, direct, and personal dealing, but it is safest; for ceremonies and superfluities of all kinds are more liable to abuse, take up more time, and being often—at least apparently—superfluous, tempt us to drop realities also. Thus, in calls, the one party may mean the actual business of seeing one another; the other may only intend the merest piece of etiquette. This has a bearing on *letters* and writing also. They are rather avoided by the former when not *necessary*. The reason is, that writings may be mislaid—may be sent anywhere—to the wrong parties, etc.

With regard to ceremony more strictly as distinguished from a mere *set-form* or mode of doing a thing, one important point to be remembered is, that it is a distinct *act*. That very meaninglessness and superfluousness for which it is sometimes ridiculed—as being “shadows of no worth,” etc.—show all the more that it is an act *not necessary*, and therefore with a meaning of its own, or at least enough of meaning to make a difference, so that none can or should say that they are *doing nothing*. If one says, I do it only because others do it, that is a reason so far; and where *some* followed it, and others did not, our doing it or not doing it would show which party we followed. Besides, nothing that we do can be supposed *entirely meaningless*. As said in the previous chapter, ceremony has been called a barrier for those in public life—in this, like a rail or counter between parties. As all see a rail or fence, then, so all must be conscious of a ceremony, and it is hypocrisy and mock humility to pretend not, or that nothing at all is intended or meant. We should at least know what we are doing, and not *blindly* go on, becoming more and more artificial and straitened for no reason at all, except to follow mere fashion as a matter of indifference, and perhaps at the same time claiming advantages we should have relinquished—as if we had really done nothing.







